



Butterfield

*Terms and conditions*

Butterfield Bank (Guernsey) Limited

## Butterfield Bank (Guernsey) Limited – general terms and conditions

These general terms and conditions govern the relationship between Butterfield Bank (Guernsey) Limited and the Client in the provision of services by the Bank to the Client.

This document and any agreements entered into between the Bank and the Client are to be read together and construed as a single document.

You are recommended to take legal advice in respect of these general terms and conditions.

# Contents

## Butterfield Bank (Guernsey) Limited general terms and conditions

	Page
1 Definitions and Interpretation	2
2 Account Opening and Maintenance	3
3 Account Management	3
4 Foreign Exchange Transactions	4
5 Trusts	4
6 Account Statements	4
7 Representations, Warranties and Undertakings	4
8 Disclaimer on Advice	5
9 The Bank's Charges	5
10 Liability and Indemnification	5
11 Right of Set-Off and Lien	6
12 Conflicting Claims	6
13 Regulatory Status	6
14 Countering Financial Crime and Terrorist Financing	6
15 Reference Agencies, Verification of Identity and Countering Financial Crime	6
16 Data Protection	6
17 Disclosures and Client Confidentiality	7
18 Force Majeure	7
19 Termination and Closing of Account	7
20 Changes to these Terms, Bank's Charges and Interest Rates	7
21 Special Conditions	7
22 Instructions, Notices and Communications from the Client	7
23 Service of Notices	8
24 General	8
25 Mediation	9
26 Arbitration	9
27 Applicable Law, Venue and Service of Process	9

## Butterfield Online terms and conditions of use

	Page
1 Definitions and interpretation	10
2 Provision of the service	10
3 Authorisation and security	10
4 Instructions	11
5 Representations and warranties	11
6 Liability and indemnification	11
7 Charges, changes, improvements to and termination of the service	11
8 Equipment and software	12
9 General	12
10 The terms	12

Revised January 2019

## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

In these Terms (unless the context otherwise requires) the following words and expressions will have the following meanings:

**Account** - the account or accounts for the holding of cash and other assets of the Client opened in accordance with and subject to these Terms and any Agreement

**Account Statement** - a statement of the activities on the Account periodically produced by the Bank in its usual format

**Agreement** - the Custody Agreement, the Investment Management Agreement entered into by the Bank and the Client and the Online Terms, if applicable

**Applicable Laws** - any law, ordinance, subordinate legislation, decree, rule, regulation, code, decision, order or directive made or imposed by any governmental, regulatory, administrative, judicial, statutory, taxing, fiscal, financial or monetary authority or any supranational authority in any jurisdiction having power or authority in any such jurisdiction applicable to any relevant person

**Associate** - any company which is a holding company of the Bank, a subsidiary of the Bank or of its holding company

**Authorised Signatories** - the person or persons authorised by the Client to instruct and communicate with the Bank under these Terms and any Agreement being those persons:

- (a) listed in the Mandate and/or the Authorised Signatories List; and
- (b) designated as Users, if any

**Authorised Signatories List** - the list provided by the Client to the Bank in the Bank's agreed format as may be updated from time to time by the Client in accordance with these Terms

**Bank** - Butterfield Bank (Guernsey) Limited

**Bank Personnel** - the directors, officers and employees of the Bank from time to time

**Bank's Charges** - the Bank's standard scale of charges, fees, expenses, commissions and other costs chargeable to the Client, in force from time to time, a current copy of which is available online at [www.gg.butterfieldgroup.com](http://www.gg.butterfieldgroup.com) and from the Bank on request

**Best Execution** - has the meaning given in the relevant rules and pursuant to which the Bank has formulated its policy, a current copy of which is available online at [www.gg.butterfieldgroup.com](http://www.gg.butterfieldgroup.com) and from the Bank on request

**Business Day** - a day (not being a Saturday, Sunday or public holiday) on which banks are open for general business in Guernsey

**Client** - the person or persons named as holder of the Account

**Client's Address** - the Client's address as set out in the Mandate or any other address or place of business of the Client last known to the Bank

**Closing Notice** - a notice given under paragraph 19

**Custody Agreement** - the Bank's Custody and Dealing Agreement under which the Bank provides such services to its clients if required

**Data Protection Law** - The Data Protection (Bailiwick of Guernsey) Law, 2017

**Encumbrance** - any interest or equity of any person including an option or pre-emption right, security interest, charge, bond, mortgage, pledge, hypothecation, lien, title retention, assignment or other arrangement having a similar effect

**Force Majeure** - any event or circumstances beyond the reasonable control of the Bank including any strike, lock-out, labour dispute, riot, civil commotion, war or national or international emergency, government action, act of God, natural force, fire, explosion, accident or epidemic or failure or interruption of electrical power

**Guernsey** - the Bailiwick of Guernsey

**Indebtedness** - all present, future or contingent indebtedness and liabilities (including interest, costs, charges and expenses on a full indemnity basis) of the Client to the Bank, whether incurred solely, severally or jointly, in whatever style, name or form, as principal, guarantor or surety, and in any currency

**Investment Management Agreement** - the Bank's Discretionary Investment Management Agreement under which the Bank provides such services to its clients if required

**Mandate** - the Mandate incorporating the relevant account opening forms completed by the Client as may be updated, amended or replaced from time to time by the Client

**Notices** -

- (a) in the case of notices from the Client to the Bank includes any instruction, notice and all other communications by or on behalf of the Client;
  - (b) in the case of notices from the Bank to the Client means notices and communications given by the Bank to the Client or an Authorised Signatory if applicable;
- under these Terms and any Agreement

**Online Terms** - the terms upon which the Bank provides electronic banking services to the Client, a current copy of which is available at [www.gg.butterfieldgroup.com](http://www.gg.butterfieldgroup.com)

**Proper Instructions** - notices, instructions and communications given on the operation of the Account:

- (a) by any Authorised Signatory
  - (i) in accordance with the Mandate; or
  - (ii) verbally, by electronic mail, telephone or facsimile if not provided for in the Mandate, subject to the Bank's discretion under paragraph 22.4 to accept such form of communication in any particular instance and on a case by case basis;
- (b) by any User in accordance with the Online Terms

**Scheme** - Guernsey Banking Deposit Compensation Scheme referred to in paragraph 24.5

**Service** - has the meaning set out in the Online Terms

**Terms** - this document which contains, and is also known as, the Bank's **general terms and conditions**

**User** - has the meaning set out in the Online Terms

### 1.2 Interpretation

1.2.1 Headings are inserted for convenience and will not affect the interpretation of these Terms and the Agreement.

1.2.2 Words denoting the singular number include the plural and vice versa and words in the masculine gender include the other genders.

1.2.3 **holding company** and **subsidiary** have the meanings given to such expressions in the Companies (Guernsey) Law, 2008.

1.2.4 The expression **person** includes references to any individual, firm, company, partnership, corporation or unincorporated entity.

1.2.5 Where the Client comprises more than one person, the **Client** will mean each of them jointly and severally to whom these Terms and the Agreement apply.

1.2.6 Where the Client is a trustee or trustees of a trust (**Trust**):

- 1.2.6.1 if there is more than one trustee, the **Client** will mean each of them jointly and severally to whom these Terms and the Agreement apply and their liabilities under these Terms and the Agreement will accordingly be joint and several; and
- 1.2.6.2 the terms of paragraph 5 shall additionally apply.



- 1.2.7 References to any consent to be given by the Bank will be to the Bank's prior written consent which may be given subject to any condition imposed by the Bank as it sees fit.
- 1.2.8 References to:
  - 1.2.8.1 the exercise of the Bank's discretion will be to its absolute and unfettered discretion,
  - 1.2.8.2 the Bank's opinion will be to its sole opinion, and the Bank will not be required to give any reasons for its decision or the basis of its opinion.
- 1.2.9 References to laws, statutes, statutory provisions, rules and regulations, include such laws, statutes, statutory provisions, rules and regulations, as respectively replaced, amended, extended or consolidated.
- 1.2.10 References to any document (including these Terms and any Agreement) include any such document as may be amended, supplemented, varied, substituted, novated or assigned from time to time.
- 1.2.11 References to the **Bank** and the **Client** include references to successors in title and permitted assigns of each of them.
- 1.2.12 References to **these Terms** or a **paragraph** are references to this document and a paragraph in it.
- 1.2.13 Any conversion of cash from one currency into another currency will be undertaken at the Bank's prevailing rate of exchange.

## 2. ACCOUNT OPENING AND MAINTENANCE

- 2.1 The Bank is not obliged to open or maintain any account for the Client unless it has received in form and substance satisfactory to it, a completed Mandate and other appropriate account opening documentation completed by or on behalf of the Client and such other financial or other information as the Bank may require from time to time.
- 2.2 The Client will ensure that all necessary authorisations, consents and licences will be obtained prior to the Client signing or executing any Bank forms or documentation or entering into any transactions with the Bank.
- 2.3 The Bank may refuse to open an account and/or accept a deposit without giving any reason.
- 2.4 If the credit balance and/or the value of any property of the Client on any Account falls below a minimum amount as set by the Bank from time to time, the Bank may, at its discretion, levy a maintenance fee at such rate to be determined at the Bank's discretion, and may debit such fee to the Account.

## 3. ACCOUNT MANAGEMENT

### 3.1 Unauthorised Overdrafts

- 3.1.1 If the Bank receives an instruction for the payment of any sum in excess of the credit balance on the Account the Bank may (but is not obliged to) decline to carry out such instruction.
- 3.1.2 If several instructions for several payments or other transactions are received by the Bank which, in the aggregate, exceed the amount of the credit balance on the Account, the Bank may at its discretion select which transaction or transactions will be executed by the Bank without reference to the date of dispatch of the Client's instructions or when they were received by the Bank.
- 3.1.3 If a debit balance arises on the Account (however caused) without the Bank's consent, the Client will immediately pay to the Bank on demand:
  - 3.1.3.1 interest on the overdrawn amount at the rate set out in the Bank's Charges for unauthorised overdrafts;
  - 3.1.3.2 an overdraft arrangement fee as set out in the Bank's Charges, subject to the Bank's discretion to waive this fee.

### 3.2 Fixed Deposits

- 3.2.1 In the absence of Proper Instructions to the contrary within the time limit specified in the fixed term deposit confirmation issued to the Client, the Bank is authorised to renew at maturity such fixed term deposit in the name of the Client for a similar term and at the prevailing market interest rate, or for such other terms as the Bank reasonably considers to be appropriate in the circumstances.
- 3.2.2 Any request by the Client to terminate a fixed term deposit contract before its maturity will be dealt with at the Bank's discretion.

### 3.3 Receipt of Funds

- 3.3.1 Funds received by the Bank in a currency for which there is no corresponding account for the Client may (unless the Client has given the Bank instructions to the contrary) be credited at the Bank's discretion in a currency in which the Client maintains its Account.
- 3.3.2 The Bank may at its discretion decline to accept any funds, in any currency, instructed to be credited to an Account, if the Bank considers such a course of action to be necessary or desirable to protect the interests of the Bank.

### 3.4 Foreign Currency

- 3.4.1 The Bank may, at any time, execute its obligations as regards foreign currencies by delivering cheques drawn on its correspondent bank or a financial institution in the country concerned.
- 3.4.2 Unless otherwise agreed by the Bank, if any cheque or other transfer is made by the Client in any currency other than the currency in which any credit balance of the Client is for the time being designated, the Bank will, at its discretion, at the risk of, and without notice to the Client, be entitled to convert any currency or currencies in which the Client's credit balance is then comprised into the currency in which the cheque or other transfer is denominated.

### 3.5 Recourse

If any entries (including in respect of bills of exchange, cheques and other similar papers) credited to the Account are subsequently dishonoured or the Bank is for any reason called upon to repay the paying bank or any other party to any transaction any amounts credited to the Account (Recourse Credit):

- 3.5.1 the Bank may debit the Account with the amount of the Recourse Credit; and
- 3.5.2 the Client will pay to the Bank on demand:
  - 3.5.2.1 the amount of any drawings which the Bank has permitted the Client to make against Recourse Credit; and/or
  - 3.5.2.2 the amount so repaid by the Bank if and to the extent that the Account falls into debit as a result of the Bank paying away funds representing the Recourse Credit or the amount so credited to the Client's account represented an amount which the Client was obliged to pay the Bank; and
  - 3.5.2.3 overdraft interest and other charges at the rate set out in the Bank's Charges for unauthorised overdrafts on any debit balances resulting from the Recourse Credit.

### 3.6 Instructions

The Bank may decline to act upon any instruction (including the payment of any cheques), delay acting on any instruction regardless whether it is a Proper Instruction and/or suspend the operation of the Account for such period as it considers appropriate at its discretion if:

- 3.6.1 in its opinion:
  - 3.6.1.1 the instruction is unclear, or impracticable or impossible to implement and the Bank has made reasonable effort to seek the Client's confirmation or clarification, where appropriate; or
  - 3.6.1.2 in acting on the instruction, the Bank or any Bank Personnel or agents may commit a breach of any Applicable Laws or be liable for any civil claim, action or proceedings; or
  - 3.6.1.3 its failure to do so may result in a breach of the Bank's internal policies or procedures, or is likely to cause damage to the reputation of the Bank or its Associates; or

3.6.2 the Bank is aware or has grounds to believe that the Client is or may be in breach of Applicable Laws in relation to the opening or operation of the Account or that the Account is otherwise being operated by a third party unlawfully.

If the Bank declines or delays in acting on an instruction or suspends the operation of the Account, it will, subject to Applicable Laws, promptly notify the Client of its decision. The Bank is not required to provide to the Client any explanation of its decision.

#### **4. FOREIGN EXCHANGE TRANSACTIONS**

4.1 The Bank may act on instructions from the Client in respect of the following foreign exchange transactions in such currencies as the Bank may undertake transactions in, and subject to any minimum amount as the Bank may determine at its discretion:

4.1.1 spot foreign exchange transactions;

4.1.2 forward foreign exchange transactions provided that:

4.1.2.1 the Bank may require security and/or additional documentation to be provided prior to implementing the Client's instruction; and

4.1.2.2 the Client has obtained prior credit approval from the Bank.

4.2 The Bank will undertake foreign exchange transactions on a Best Execution basis in accordance with its Best Execution policy.

4.3 The Client's instructions in respect of foreign exchange transactions will be dealt with by the Bank as soon as reasonably practicable.

#### **5. TRUSTS**

5.1 This paragraph will apply where the Client is a trustee of a trust (**Trust**) and the Account has been opened in the name of the Client in its capacity as trustee of the Trust.

5.2 Notwithstanding the Client is a trustee of a Trust, the Client will remain personally responsible for the repayment of any Indebtedness due from the Client or the Trust and the Client will in all respects be treated as the sole legal and beneficial owner of the Account and fully entitled to enter into any Agreement.

5.3 Subject to the provisions relating to Proper Instructions, any instruction provided by the person purporting to be the trustee will be assumed, without verification or investigation by the Bank, to be in accordance with the trust instrument governing the Trust.

5.4 The Bank is not affected by the terms of the Trust regardless whether it has any notice of the trust instrument. Provided that any action or instruction is within the Mandate, the Bank is not obliged to verify that any action or instruction by the trustee or other person in relation to the Account and any other dealings with the Bank is within its powers as set out in the trust instrument or otherwise.

5.5 If the Bank becomes aware that one or more persons named as trustees and comprising the Client has ceased for any reason to be a trustee of the Trust the Bank may at its discretion treat the remaining trustee or trustees as having full power to act on behalf of the Trust and to deal with the Account and any other asset of the Trust as if there had been no change of trustees, without requiring any amendment to the Mandate or Authorised Signatories List.

#### **6. ACCOUNT STATEMENTS**

6.1 Account statements will be sent to the Client by the Bank on a quarterly basis or at such other intervals as may be agreed with the client. If there is no account activity, statements will be sent annually on the anniversary of the last transaction occurring.

6.2 Any Account Statement sent to the Client will be deemed to be correct, conclusive and binding on the Client unless the Client notifies the Bank promptly that:

6.2.1 it disputes any entry on the Account Statement; or

6.2.2 the Bank has not carried out any Proper Instruction relevant to the Account Statement.

6.3 The Client will take reasonable care to minimise the risk of fraud or forgery in the use of cheques drawn on the Account and will carefully examine Account Statements for any unauthorised debit items. If the Client becomes aware of or suspects any fraudulent or other unauthorised activity on the Account the Client will notify the Bank immediately.

#### **7. REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS**

##### **7.1 Representations**

The Client represents that:

7.1.1 where the Client is a company or other corporate entity, it is duly incorporated and validly existing and in good standing under the laws of the jurisdiction of its incorporation or establishment;

7.1.2 the Terms and the Agreement are valid, binding and enforceable on the Client;

7.1.3 the Client has obtained all necessary and relevant authorisations, consents and licences required to perform its obligations under these Terms and the Agreement;

7.1.4 they are responsible for obtaining tax advice and for declaring and filing any applicable taxes to the relevant tax authorities;

7.1.5 the Terms and the Agreement are within the powers of the Client and their execution and performance by the Client of its obligations under such documents will not constitute a breach of or result in any default under any other agreement, instrument or obligation by which the Client is bound;

7.1.6 the Client is not in default under any other agreement in any respect which is material in the context of these Terms and the Agreement;

7.1.7 all monies and other property deposited in the Account are the Client's sole and absolute property free from Encumbrance; and these representations and warranties are deemed repeated at the time of the giving of any instructions or deemed instructions to the Bank under the Terms or any Agreement.

##### **7.2 Undertakings**

The Client undertakes:

7.2.1 to supply to the Bank promptly upon request such information as the Bank may at its discretion consider to be necessary to enable it to properly discharge its obligations under the Terms and any Agreement in accordance with Applicable Laws, including information concerning the Client's identity, the ultimate beneficial ownership of any monies paid in or deposited with the Bank or any other assets held by the Bank on the Client's behalf and outgoing payments made from any Account;

7.2.2 that all Proper Instructions will be lawful and not be in breach of any Applicable Laws;

7.2.3 not to create or allow to be created any Encumbrance over the Account without the consent of the Bank;

7.2.4 to notify the Bank immediately of any change in his circumstances, his tax residence or status or any other changes which may be material to the dealings between the Bank and the Client or the performance of the Bank of its obligations under these Terms or any Agreement.

7.2.5 to promptly provide such information and documentation to the Bank as the Bank may reasonably require relating to the Client including any information necessary for the Bank to fulfil its obligations under Applicable Laws or any regulatory requirements (including customer due diligence) or to enable the Bank to make any necessary withholdings or deductions by way of taxation or otherwise and will promptly notify the Bank if any such information ceases to be accurate or is otherwise superseded.

## **8. DISCLAIMER ON ADVICE**

- 8.1 Unless specifically provided in any Agreement, the Client acknowledges that the Bank does not provide or hold itself out as providing advice to the Client under these Terms:
- 8.1.1 on the suitability of the Bank's products, services or loan facilities for the Client's particular circumstances;
  - 8.1.2 relating to the fiscal or tax affairs of the Client in Guernsey or elsewhere, nor does the Bank exercise any judgment on the Client's behalf in such matters;
- and accordingly neither the Bank nor any Bank Personnel will be liable for any loss arising as a direct or indirect result of the Client relying on or acting on any information.
- 8.2 The Client is responsible for obtaining his own independent advice in any transactions with the Bank including the giving of any security or guarantee to the Bank.

## **9. THE BANK'S CHARGES**

### **9.1 The Client will pay:**

- 9.1.1 the Bank's fees, costs and charges at the rates set out in the Bank's Charges;
- 9.1.2 the Bank's fees on a time spent basis in respect of any work undertaken by the Bank under these Terms:
  - 9.1.2.1 at the request of the Client; or
  - 9.1.2.2 in relation to or for the purpose of complying with any Applicable Laws; or
  - 9.1.2.3 in dealing with a Client request or breach of any Agreement by the Client; and
- 9.1.3 all third party and agents' costs and charges in connection with these Terms and any Agreement.

### **9.2 Any amounts due to the Bank under these Terms and any Agreement:**

- 9.2.1 will be debited by the Bank to the Account from time to time; or
- 9.2.2 will be paid by the Client on demand together with any applicable taxes, without any set-off, deduction or withholding. Where any deduction or withholding is required to be made on account of tax properly payable under any Applicable Laws, then the amount payable by the Client will be increased to ensure that the Bank receives an amount equal to that which it would have received had no deduction or withholding been made. The Client will provide the Bank evidence of the proper payment of such withholding tax.

## **10. LIABILITY AND INDEMNIFICATION**

### **10.1 Liability**

- 10.1.1 Without prejudice to any Agreement, this paragraph 10 sets out the provisions under which the Bank's liability to the Client in all dealings with the Client under these Terms and any Agreement will be excluded or limited, to the extent permitted by Applicable Laws.
- 10.1.2 The Bank will not be liable to the Client or any other person whether in contract or in tort for any costs, expenses, losses, liabilities, damages, claims, actions, proceedings or demands which the Client may incur or suffer:
  - 10.1.2.1 as a result of any error, corruption, delay or failure in transmission of any instructions or communication between the Client and the Bank made by any means used by the Client or the Bank in accordance with these Terms notwithstanding that the instructions or communications are Proper Instructions; provided that the Bank has acted in good faith and in the absence of negligence, wilful default or fraud; or
  - 10.1.2.2 as a result of the processing of bills of exchange or other receivables by the Bank acting as agent without assuming any liability or responsibility; or
  - 10.1.2.3 as a result of any bill of exchange, cheque or other receivables being unclear or incomplete, or not being presented or challenged within the prescribed time due to delay in the Bank receiving it in a reasonable time before the clearance date; or
  - 10.1.2.4 as a result of a Force Majeure; or
  - 10.1.2.5 resulting from any instructions given or purportedly given by an Authorised Signatory verbally, in person, over the telephone or by electronic mail, or the Bank acting erroneously or failing to act in accordance with such instructions; or
  - 10.1.2.6 as a result of the Bank acting on Proper Instructions; or
  - 10.1.2.7 as a result of any wilful default, negligence or fraud on the part of any person other than the Bank or Bank Personnel; or
  - 10.1.2.8 as a result of any liability to taxation (howsoever and wheresoever arising) assessed or imposed directly or indirectly upon the Client, his assets or their management, control or custody under the Terms or any Agreement; or
  - 10.1.2.9 if, by reason of any Applicable Laws, the Bank is prevented from or impeded in or is delayed in carrying out its obligations to the Client; or
  - 10.1.2.10 as a result of or in connection with the Bank complying or purporting to comply with any Applicable Laws including but not limited to the suspension of the Account by the Bank.
- 10.1.3 Unless specifically set out in these Terms or any Agreement, the Bank is not liable for any economic or consequential loss, direct or indirect, loss of opportunity or loss of profits, whether foreseeable or not, suffered by the Client.
- 10.1.4 Without prejudice to paragraph 10.1.3, the Bank's liability to the Client in respect of any error or omission on its part will not exceed an amount equal to the loss of interest (if any) as a result of the Bank's error or omission in carrying out Proper Instructions. If the Bank takes any action to restore the Client to the position he would have been in if the error or omission had not occurred, the Bank is entitled to retain any profit or gain arising as a result of taking such action.
- 10.1.5 The limit on the Bank's liability in the preceding sub-paragraph does not apply if in any specific case the Bank was notified by the Client in advance of the risk of more extensive loss to the Client and the Bank has agreed in writing to accept such risk.
- 10.1.6 Any loss resulting from the legal incapacity of a Client or a third party will be borne by the Client or his/her estate (as the case may be) unless the Bank has received notice of such legal incapacity. The Bank may continue to act in accordance with any Mandate or other agreement with the Bank until it receives notice of the death or other legal incapacity of the Client and the Bank will incur no liability to the Client or to his/her estate for continuing to so act.
- 10.1.7 The Client is not entitled to receive any damages or other compensation from the Bank on the termination of the relationship between the Bank and the Client and/or any Agreement or other arrangement between the Bank and the Client or on the closing of the Account by the Bank by reason of Force Majeure.
- 10.1.8 No action may be brought or claim made by the Client against any Bank Personnel by virtue of anything done or omitted to be done pursuant to these Terms or any Agreement.
- 10.1.9 The Bank may rely on the advice given by legal advisors, accountants, consultants and such other persons as the Bank may engage in the course of performing its obligations. The Bank will not be liable for any costs, expenses, losses, liabilities, damages, claims, actions, proceedings or demands which the Client may incur or suffer as a result of the Bank acting on any such advice.

### **10.2 Indemnification**

- 10.2.1 In the absence of negligence, wilful default or fraud on the part of the Bank the Client will indemnify and keep indemnified the Bank and Bank Personnel against all costs (including the costs of taking legal and other professional advice), expenses, losses, liabilities, damages, claims, actions, proceedings or demands incurred or suffered by the Bank or any Bank Personnel:
  - 10.2.1.1 by virtue of or in connection with the Bank's appointment as the Client's bankers and the performance of its functions under these Terms and any Agreement;
  - 10.2.1.2 as a result of the Bank acting, failing to act or acting erroneously on Proper Instructions in good faith;
  - 10.2.1.3 in connection with any action taken by the Bank which it reasonably believes to be in compliance with Applicable Laws; and



10.2.1.4 in dealing with any conflicting claims relating to the Account or any other property of the Client and in safeguarding the Bank's interest.

10.2.2 Notwithstanding any other provision in these Terms and any Agreement the Bank will not be required to take any action on behalf of or at the request of the Client unless it is fully indemnified and/or secured to its satisfaction against all costs (including legal and other professional costs), expenses, losses, liabilities, damages, claims, actions, proceedings or demands arising directly or indirectly out of or in connection with any action. The Bank may decline to take any such action if in the opinion of the Bank such action may be detrimental to its interest.

### 10.3 Client's Responsibility

The Client is responsible for all the acts and omissions of its Authorised Signatories and Users. For the purposes of these Terms, the acts and omissions of any Authorised Signatory or User will be deemed to be the acts and omissions of the Client.

## 11. RIGHT OF SET-OFF AND LIEN

- 11.1 The Bank will have the rights set out in this paragraph in addition to any rights under general law or by virtue of any guarantee or security agreement or other agreement between the Bank and the Client.
- 11.2 The Bank may at any time, at the risk of and without notice to the Client, in respect of any Account, whether current or deposit account and in any currency:
- 11.2.1 combine and consolidate any and all of the Accounts; and
  - 11.2.2 set off any monies in any and all of the Accounts against all or part of any Indebtedness regardless whether any of the monies held may have been deposited for fixed periods which have not expired.
- 11.3 The Client agrees that if the Bank appropriates any deposit before its maturity date the amount applied will be net of the amount of early withdrawal penalty (if any, which will be payable by the Client) charged by the Bank in the ordinary course of its deposit business.
- 11.4 The Bank has a lien over any property of the Client held in any Account and any amounts which may now or in the future be owing by the Bank to the Client (whether or not jointly with other clients of the Bank) until the Indebtedness has been fully repaid or discharged. If any Indebtedness is not fully repaid or discharged when due, the Bank will be entitled to appropriate any amount held by the Bank and owing to the Client in or towards repayment and/or discharge of the Indebtedness in full or in part.
- 11.5 The Bank is entitled at its discretion at any time at the risk of and without notice to the Client to convert any currency into any other currency in which the Indebtedness or any credit balance may for the time being be designated.

## 12. CONFLICTING CLAIMS

- 12.1 If the Bank receives notice or otherwise becomes aware that any funds in the Account may be subject to any conflicting or third party claims, the Bank may at its discretion take such steps as it deems necessary at the cost of the Client including the taking of legal advice or making an application to any court and pending resolution of any conflicting claim the Bank may:
- 12.1.1 refuse to pay or deliver to the Client all or any part of the funds or property held in the Account;
  - 12.1.2 decline to enter into any communications with the Client regarding the claim;
  - 12.1.3 take such action as it considers, at its discretion, to be appropriate.

## 13. REGULATORY STATUS

- 13.1 The Bank is licensed by the Guernsey Financial Services Commission under:
- 13.1.1 The Banking Supervision (Bailiwick of Guernsey) Law, 1994, as amended from time to time; and
  - 13.1.2 The Protection of Investors (Bailiwick of Guernsey) Law, 1987, as amended from time to time, to act, amongst other things, as custodian and trustee of assets and to provide investment management services.

## 14. COUNTERING FINANCIAL CRIME AND TERRORIST FINANCING

- 14.1 Information relating to the Client may be processed by the Bank for the purpose of complying with Applicable Laws on countering financial crime and terrorist financing. This includes a requirement on the part of the Bank to supply payer information (amongst other things) on a transfer of funds.
- 14.2 The Bank may take such action as it considers appropriate to meet its obligations relating to countering financial crime and terrorist financing and the provision of financial and other services to persons who may be subject to sanctions. This may include, but is not limited to, investigating and intercepting payments into and out of the Account and investigating the source of or intended recipient of funds. It may also include making enquiries to establish whether a person is subject to sanctions.

## 15. REFERENCE AGENCIES, VERIFICATION OF IDENTITY AND COUNTERING FINANCIAL CRIME

- 15.1 The Client will provide promptly on the request of the Bank from time to time such information regarding his affairs for any purpose required by the Bank including dealing with any credit reference or similar enquiry relating to the Client.
- 15.2 The Client authorises the Bank to contact such persons as the Bank thinks fit, to verify the correctness and completeness of any information furnished by the Client and authorises such persons to release such information to the Bank. Credit searches and other information which are provided to the Bank about the Client may be used by the Bank or any Associate subject to Applicable Laws.
- 15.3 The Bank may ask the Client to provide physical forms of identification or it may telephone the Client to confirm the Client's identity.
- 15.4 To counter financial crime and terrorist financing and to assist in verifying the Client's identity the Bank may make searches of the records of any Associate and reference and other agencies. Any information disclosed to the Bank may be provided by the Bank to third parties subject to Applicable Laws.

## 16. DATA PROTECTION

This paragraph applies to information held by the Bank relating to private individuals:

- 16.1 The Bank is a data Controller, within the meaning of the Data Protection Law. In acting as data Controller the Bank confirms that it will comply with the Data Protection Law when obtaining and processing relevant data, including both Personal Data and Special Category Data.
- 16.2 The Bank acknowledges that the Client has certain rights in respect of the data held by the Bank.
- 16.3 The Client acknowledges that the Bank has provided information to the client setting out what data is held by the Bank, how this data will be used and the client's rights in respect of this data.
- 16.4 For the purpose of this paragraph, data Controller, data, Personal Data and Special Category Data have the meaning set out in the Data Protection Law.
- 16.5 Further details of the Bank's Data Protection Policy and the Client's Data Protection rights can be obtained from [www.gg.butterfieldgroup.com](http://www.gg.butterfieldgroup.com) or by contacting [LICGuernsey@butterfieldgroup.com](mailto:LICGuernsey@butterfieldgroup.com).

## **17. DISCLOSURES AND CLIENT CONFIDENTIALITY**

### **17.1 General**

- 17.1.1 The Bank and the Client acknowledge that the duty of confidentiality owed by the Bank to the Client in their dealings under these Terms and any Agreement will be subject to these Terms.
- 17.1.2 Subject to Applicable Laws, neither the Bank nor the Client will, and each will procure that its employees will not, at any time, disclose to any person not authorised by the other party, any information relating to the other party or to the affairs of the other party which that party acquired in the course of their dealings under the Terms or any Agreement and each party will use all reasonable endeavours to prevent such disclosure.
- 17.1.3 The Bank will not be deemed to be in breach of its duty of confidentiality and any other duty to the Client:
  - 17.1.3.1 if the Bank makes any disclosure to any person or takes any action (including making any withholding) which it reasonably believes to be in compliance with its obligations under Applicable Laws; or
  - 17.1.3.2 if the possibility of disclosure to any person is in accordance with or contemplated by these Terms or any Agreement.

### **17.2 Tax and other disclosures**

- 17.2.1 The Client acknowledges that in addition to any other requirements relating to disclosures imposed by Applicable Laws, the Bank is required to make certain deductions, withholdings and/or disclosures concerning the Client to tax authorities in Guernsey and/or elsewhere.
- 17.2.2 The Client authorises the Bank and its Associates to make the necessary deductions, withholdings and disclosures in respect of the Client's financial and tax affairs under Applicable Laws and the Client acknowledges and agrees that such information may be made available to any governmental, regulatory, judicial, administrative, tax or other authority outside Guernsey.

### **17.3 Sharing of information**

The Bank may share with its Associates and their respective advisers, any information held by the Bank (including Data) relating to the Client for the purpose of undertaking or assisting in any due diligence on the Client and/or to enable the Bank or its Associates to comply with Applicable Laws.

## **18. FORCE MAJEURE**

- 18.1 Performance of the Bank's services may be suspended during any operation of Force Majeure, which will be resumed as soon as reasonably practicable after the termination of the Force Majeure, subject to the following sub-paragraph.
- 18.2 If in the opinion of the Bank it is unlikely that the event of Force Majeure will come to an end within a reasonable period of time to enable normal resumption of the services to be performed by the Bank, the Bank may give a Closing Notice to the Client.

## **19. TERMINATION AND CLOSING OF ACCOUNT**

- 19.1 If the Bank or the Client wishes to terminate the banking relationship between them and close the Account, either may give a Closing Notice to the other.
- 19.2 The Bank is not required to give any reason for giving a Closing Notice.
- 19.3 If the Client gives a Closing Notice to the Bank, the Bank may (but is not obliged to) complete any transactions entered into by or on behalf of the Client before such notice was received.
- 19.4 A Closing Notice given by either the Bank or the Client shall take effect on 30 days' notice being given. All liabilities of the Client to the Bank and Indebtedness will become due and payable immediately.
- 19.5 The Client will provide to the Bank account details of the Client to which any credit balances on any Account will be transferred by the Bank. The Bank is not obliged to make any transfers except in accordance with Applicable Laws.
- 19.6 The giving of a Closing Notice by either party takes effect as a notice to terminate the Agreement in accordance with its terms.
- 19.7 Termination of the banking relationship between the Bank and the Client, the closure of the Account or the termination of any Agreement will not affect accrued rights, existing commitments or any other provision intended to survive termination and closure.
- 19.8 Notwithstanding the termination of the banking relationship between the Bank and the Client, the Client undertakes to promptly provide any information and documentation as the Bank may reasonably require (including to ensure that the Bank fulfils its obligations under Applicable Laws or any regulatory requirements (including customer due diligence)) to enable the Bank to effect the termination of the banking relationship and/or to close the Account.
- 19.9 The following provisions will survive the termination of the relationship between the Bank and the Client and the closing of the Account: Paragraphs 10, 11, 14, 16, 17, 19, 24.6, 24.8, 25, 26 and 27.

## **20. CHANGES TO THESE TERMS, BANK'S CHARGES AND INTEREST RATES**

- 20.1 The Bank may make changes to any of these Terms including the Bank's Charges and applicable interest rates on giving at least 30 days' notice by circular or any other appropriate means (including by Butterfield Online, by post, email, a message on the Client's statement, or in another way that will be sent to the Client individually) to affected Clients.
- 20.2 Any such changes may take effect on 30 days' notice being given or on a date to be specified.
- 20.3 Changes will be posted on the Bank's website [www.gg.butterfieldgroup.com](http://www.gg.butterfieldgroup.com) within a reasonable period and may be separately notified to the Client.

## **21. SPECIAL CONDITIONS**

In addition to these Terms and to the Mandate, the Bank may in relation to certain transactions or certain types of business that it may undertake from time to time agree special conditions with the Client. Documentary credit business will be governed by the Uniform Customs and Practice for Documentary Credits (1993 Revision) International Chamber of Commerce Publication No. 500 or by subsequent Uniform Customs and Practice (**Customs**) fixed by subsequent Congresses of the International Chamber of Commerce unless otherwise indicated. If there is any conflict between any such special conditions and these Terms the provisions of the special conditions will prevail. If there is any conflict between the Customs and these Terms, these Terms will prevail. Any aspect of business between the Bank and the Client which is not governed by these Terms or any special condition or the Customs will be governed by customary banking practice in Guernsey.

## **22. INSTRUCTIONS, NOTICES AND COMMUNICATIONS FROM THE CLIENT**

- 22.1 This paragraph and paragraph 23 set out the requirements for the giving of Notices (including a Closing Notice) by the Client to the Bank.
- 22.2 The Client authorises the Bank to act in accordance with Proper Instructions and agrees to be bound by all such communications.
- 22.3 The Bank may rely conclusively on the list of signatories and signatures appearing in the Mandate and the Authorised Signatories List until:
  - 22.3.1 notified in writing to the contrary by the Client; or
  - 22.3.2 receipt of a revised Mandate or Authorised Signatories List from the Client.



- 22.4 The Bank may (but is not obliged to) in respect of any matter or generally:
- 22.4.1 rely upon, accept and act in accordance with any communication received from or which purports to be from an Authorised Signatory, by telephone, facsimile or electronic mail without further verification or from a User in accordance with the Online Terms; and/or
  - 22.4.2 require the Client or any Authorised Signatory to provide:
    - 22.4.2.1 further confirmation of any communication to the Bank and marked "Confirmation Only, do not duplicate"; and/or
    - 22.4.2.2 evidence of identity or authority of the Authorised Signatory or other person purporting to communicate with the Bank on behalf of the Client;
 in such form as the Bank considers appropriate and in any particular instance regardless of the nature of the instruction contained in such communication, if the communication with the Bank has been made by telephone, facsimile or electronic mail; and/or
  - 22.4.3 decline to act on communications made by telephone, facsimile or electronic mail if the Bank, acting in good faith, is not satisfied as to the source or authenticity of the communication; and
  - 22.4.4 decline to act on any instruction (including any Proper Instruction) which appears to the Bank to be incomplete or unclear in any respect.
- 22.5 Acceptance by the Bank of any form of communication from or on behalf of the Client or an Authorised Signatory in a particular instance which is outside the scope of the Mandate will not be deemed to be a variation of the Mandate, nor will it oblige the Bank to accept such form of communication in future from or on behalf of the Client or an Authorised Signatory regardless of the subject matter of the communication.
- 22.6 The Client agrees to perform, confirm, and ratify any transaction entered into, or commitment made by the Bank and any actions taken by the Bank in good faith as a result of the Bank acting on Proper Instructions.

### 23. SERVICE OF NOTICES

- 23.1 Notices must be in writing and may be delivered personally, sent by post or facsimile, and will be deemed to be received notwithstanding Force Majeure:
- 23.1.1 by the Client:
    - 23.1.1.1 if delivered personally: on the day of delivery if it is a working day in the place which it is delivered, or otherwise at the start of the next Business Day;
    - 23.1.1.2 if sent by pre-paid post to the Client's Address in Guernsey: at midday on the following Business Day;
    - 23.1.1.3 if sent by pre-paid post to the Client's Address in the United Kingdom: at midday on the second Business Day after posting;
    - 23.1.1.4 if sent by pre-paid airmail to the Client's Address outside Guernsey and the United Kingdom: at midday on the fifth day after posting;
    - 23.1.1.5 if sent by facsimile to the Client's number last known to the Bank: at the time of transmission during normal business hours in the place of receipt, on a working day in the place of receipt, or otherwise at the start of the next working day in the place of receipt; and
    - 23.1.1.6 if sent by electronic mail to the Client to an address notified by the Client as an address at which he may be served (which is not returned as undeliverable): at the time of sending during normal business hours in the place of receipt, on a working day in the place of receipt or otherwise at the start of the next working day in the place of receipt.
  - 23.1.2 by the Bank: only upon actual receipt by the Bank at its place of business at:  
Regency Court, Glatigny Esplanade, St Peter Port, Guernsey, GY1 3AP  
Facsimile No: +44 (0)1481 714533.  
Marked for the attention of "the Managing Director"
- 23.2 Any Notice from the Bank is effective despite the death, dissolution or liquidation of the Client.
- 23.3 The date on the duplicate of the Notice retained by the Bank is conclusive proof of date of posting.

### 24. GENERAL

- 24.1 **Retention of commissions and other payments**  
The Bank may retain for its own benefit and without accounting to the Client all broking, trailing or other commissions or payments of a similar nature received or receivable on investment transactions, dealings, insurance or otherwise as a result of or incidental to the performance of its functions under these Terms and any Agreement.
- 24.2 **Waiver of Rights**
- 24.2.1 No failure to exercise or single or partial exercise and no delay in exercising on the part of the Bank any right, power or privilege under these Terms or any Agreement will operate as a waiver of any of the Bank's rights.
  - 24.2.2 The Client waives any rights which he may have pursuant to "droit de discussion" and "droit de division" and any other laws of Guernsey or elsewhere, to require that:
    - 24.2.2.1 any of his liabilities to the Bank be divided or apportioned with any other person or reduced in any manner; or
    - 24.2.2.2 the Bank seek recourse against the assets of some other person before proceeding against the Client or his assets.
- 24.3 **Remedies cumulative**  
The rights, powers and remedies provided in these Terms and any Agreement are cumulative and not exclusive of any rights, powers and remedies provided by law.
- 24.4 **Severability**  
If any of the provisions in these Terms or any Agreement is held to be invalid, illegal or unenforceable in any respect under any law, the remaining provisions of these Terms or the Agreement will remain valid, legal and enforceable. There will be deemed substituted for any invalid, illegal or unenforceable provision such reasonable alternative provision which has as nearly as possible the same effect as between the Client and the Bank, insofar as such substitution is permitted by law.
- 24.5 **Compensation Scheme**
- 24.5.1 As a licensed bank in Guernsey, the Bank is a participant in the Guernsey Banking Deposit Compensation Scheme established by The Banking Deposit Compensation Scheme (Bailiwick of Guernsey) Ordinance, 2008 (**Ordinance**). The following is a brief summary of the Scheme, but is not intended as a substitute for the actual wording of the Ordinance, a copy of which is available on request.
  - 24.5.2 The Scheme only applies to 'qualifying deposits', which broadly means deposits made by natural persons for their own benefit; with a few limited exceptions such as, for example, deposits made by trustees of retirement annuity trust schemes; the Scheme does not apply to companies, trusts or limited partnerships.
  - 24.5.3 The Scheme will provide compensation in the event that a licensed bank is unable to repay its depositors. Under normal circumstances, payment will be made within 3 months of receipt of a valid claim form.
  - 24.5.4 Compensation is limited to a maximum of £50,000 per individual claimant; in the case of a joint account each depositor would be entitled.
  - 24.5.5 Total Scheme compensation in any five year period is limited to £100 million. If claims exceed this cap, compensation would be reduced pro rata. The cap also means that compensation in respect of any one bank cannot exceed £100 million.
  - 24.5.6 The amount payable may be reduced if the Bank has any relevant security against the account. The Scheme is entitled to recover compensation from any funds subsequently paid out by the Bank.

24.5.7 Further information and a leaflet about the Scheme is available at:

Post: PO Box 380, St Peter Port, Guernsey, GY1 3FY Website: [www.dcs.gg](http://www.dcs.gg) Telephone: +44 (0)1481 722756.

24.5.8 Updated information can be found on the Bank's website [www.gg.butterfieldgroup.com](http://www.gg.butterfieldgroup.com), which includes a link to the Scheme's website.

24.5.9 Deposits are not covered by the Financial Services Compensation Scheme under the Financial Services and Markets Act 2000, nor are deposits covered by any equivalent scheme outside of the Bailiwick of Guernsey.

#### **24.6 Document Retention**

The Bank is required to retain all relevant documents in connection with the provisions of services by the Bank to the Client under these Terms and any Agreement for the minimum period specified by the relevant rules. Such documents may be made available to any person and for any purpose authorised under the Applicable Laws.

#### **24.7 Telephone recording**

Telephone calls may be recorded or monitored for security, training and service quality purposes. All recordings remain the sole property of the Bank.

#### **24.8 Computer records**

All information held on the Bank's computer systems is the property of the Bank.

#### **24.9 Dormant Accounts**

Provided that the Bank has made every reasonable effort and attempt to contact the Client, the Bank may transfer to an unclaimed balances account any balances left on accounts where there has been no activity for a minimum period of three years.

#### **24.10 Authorised Signatories List**

Changes to the Mandate and the Authorised Signatories List may be made by the Client from time to time subject to the Bank being provided with satisfactory evidence of the Client's authority to make the relevant changes, including in the case of a corporate Client a certified board resolution.

#### **24.11 Death**

Upon the death of the Client (being an individual or individuals), until the Bank has received satisfactory evidence of death and the Guernsey grant or re-sealing of probate or letters of administration, the Bank may retain any amount in any Account or any monies owing by the Bank to the Client on any other account. Where the Client consists of two or more persons named as joint account holders, if the Bank receives notice that any one of the joint account holders has died, the Bank may treat the surviving joint account holder as having full power and authority to deal with the Account as if he were the sole account holder from the outset.

#### **24.12 Complaints**

If the client has a complaint in respect of the Bank's service the client should, in the first instance, write to their Relationship Manager or to the Head of Compliance. Full details of the Bank's complaint handling procedure is available on the Bank's website or on request. The client may also have the right to complain directly to the Channel Islands Financial Ombudsman. If the client wishes to exercise this right the contact details are as follows:

##### **Channel Islands Financial Ombudsman (CIFO)**

PO Box 114, Jersey, Channel Islands, JE4 9QG

Email: [enquiries@ci-fo.org](mailto:enquiries@ci-fo.org) Website: [www.ci-fo.org](http://www.ci-fo.org) Guernsey local phone: +44 (0)1481 722218 International phone: +44 (0)1534 748610

The Channel Islands Financial Ombudsman (CIFO) is a joint operation of two statutory ombudsman roles, established in law by the Financial Services Ombudsman (Jersey) Law 2014 and the Financial Services Ombudsman (Bailiwick of Guernsey) Law 2014. The primary role of CIFO is to resolve complaints about financial services provided in/from Jersey, Guernsey, Alderney and Sark. Individuals, microenterprises and, subject to consultation, small local charities will be able to bring complaints.

### **25. MEDIATION**

Any dispute, question, difference or claim which may arise concerning the construction, meaning or effect of these Terms and any Agreement or concerning the rights and liabilities of the Bank or the Client or any other matters arising out of or in connection with these Terms and any Agreement will in the first instance be referred to a mediator in Guernsey for resolution, such mediator to be appointed by agreement between the Bank and the Client. Failing agreement on the identity of the mediator either party may request that a mediator be nominated by the Chairman or Vice Chairman for the time being of the Association of Guernsey Banks.

### **26. ARBITRATION**

If the parties fail to reach agreement through mediation, either party may elect that the matter be referred to arbitration to be conducted by a single arbitrator in Guernsey appointed by agreement between the Bank and the Client in accordance with the Arbitration (Guernsey) Law, 1982. Failing such agreement within 10 Business Days of the request by one party to the other that a matter be referred to arbitration in accordance with this paragraph, such reference will be to an arbitrator appointed by the Batonnier for the time being of the Guernsey Bar Council.

### **27. APPLICABLE LAW, VENUE AND SERVICE OF PROCESS**

27.1 These Terms and the Agreement are governed by and are to be construed in accordance with Guernsey law.

27.2 Without prejudice to paragraphs 25 (Mediation) and 26 (Arbitration) the Client irrevocably submits to the jurisdiction of the Guernsey courts, waiving any right to assert that Guernsey is not an appropriate or convenient forum for the adjudication of disputes arising in relation to these Terms and the Agreement, or that the Guernsey courts lack jurisdiction in such matters.

27.3 The Bank is not precluded from bringing proceedings against the Client in any other jurisdiction in which the Client may have assets or a place of business or which the Bank considers to be appropriate in the circumstances.

27.4 Unless the Bank expressly gives its consent or agrees to submit to the jurisdiction of a court outside Guernsey, the Client may not bring proceedings against the Bank in any jurisdiction other than Guernsey.

27.5 Without prejudice to any other effective means of service, the parties agree that legal process issued in the Guernsey courts, or any other document to be sent or served in connection with any proceedings arising out of the Terms or any Agreement, may be served in person or by dispatch to the other party by registered or recorded mail sent to that party's last known address and will be deemed served upon delivery. Subject to any conditions which may be attached to the service of any legal process, such legal process will be deemed to have been delivered when it is left at the other party's address or in the case of service by dispatch within 24 hours after that date of dispatch.

## Butterfield Online - terms and conditions of use

This document and the Bank's general terms and conditions set out the terms upon which the Bank provides Butterfield Online services to the Client and should be read together. The Bank's general terms and conditions form part of these Terms.

### 1. DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

**Account Data** - all data in respect of the Account and the Portfolio delivered to the Client through the Service, including cash balances, securities holdings, prices, valuations, cash and securities transactions

**Application** - means the application submitted by the Client to the Bank requesting the Service:

- a) in the case of a Personal Client, a Butterfield Online Personal Application;
- b) in the case of a Corporate Client, a Butterfield Online Corporate Application;
- c) in the case of an Intermediary Client, the Butterfield Online Intermediary Application

**Bank's Website** - the website of Butterfield Bank (Guernsey) Limited which may be accessed at [www.gg.butterfieldgroup.com](http://www.gg.butterfieldgroup.com)

**Client** - has the meaning given in the Terms and includes, for the purpose of this document, a Personal Client, a Corporate Client and an Intermediary Client, as applicable

**Client User ID and Password** - the unique User ID and Password provided by the Bank to the Client following acceptance by the Bank of the Application to allow access to the Service

**Corporate Client** - a corporate entity, corporation, unincorporated entity, partnership (including limited partnership and limited liability partnership), foundation, trustee or other Client (not being a Personal Client), where such Client acts in its own name in the operation of its Account

**Intermediary Client** - a corporate entity, corporation, unincorporated entity, partnership (including limited partnership and limited liability partnership), foundation, trustee or other Client (not being a Personal Client), who acts on behalf of its Underlying Client

**Instructions** - online instructions given to the Bank through the Service

**Personal Client** - a Client who is a private individual

**Portfolio** - the bonds, cash, instruments, investments, property, shares, stocks and other securities and property (not including land or any interest in land) deposited with or managed by the Bank under the Custody Agreement or Investment Management Agreement entered into by the Bank and the Client

**Service or Butterfield Online** - the provision and enabling of online access to Accounts and Portfolios in accordance with these terms

**Terms** - the Bank's general terms and conditions a current copy of which is available online at [www.gg.butterfieldgroup.com](http://www.gg.butterfieldgroup.com) and from the Bank on request

**Underlying Client** - a client of the Intermediary Client in respect of whose Account the Intermediary Client has control

**User** - any person authorised by the Client to operate the Service at the Client's own risk

**User Administrators** - the persons appointed by an Intermediary Client pursuant to the completed Butterfield Online Intermediary Application

#### 1.2 Interpretation

1.2.1 Unless otherwise defined in this document, words and phrases defined in the Terms when appearing in this document have the meanings given to them in the Terms.

1.2.2 The principles of interpretation set out in paragraph 1.2 of the Terms (other than paragraph 1.2.12 of the Terms) apply also to this document.

1.2.3 References to this document, a paragraph and a schedule shall be to this document, a paragraph in and a schedule to this document, unless the context requires otherwise.

### 2. PROVISION OF THE SERVICE

2.1 This document sets out the terms and conditions for use of the Service. No waiver, alteration or modification shall be binding unless in writing and approved by the Bank. Neither the conduct of the Client nor usage shall act to modify or alter any provision of this document.

2.2 The Service may not be used by the Client to issue Instructions on any matter which is the subject of or which relates to the Custody Agreement or Investment Management Agreement, other than in relation to cash in Accounts forming part of the Portfolio.

2.3 Current operating parameters, hours of service and deadlines are outlined on the relevant online page in the Service. The Client's continued use of the Service subsequent to the issue of any amendments shall constitute acceptance of the amendments.

2.4 Instructions received by the Bank's published deadlines on any Business Day will normally be processed that day during normal banking hours. Instructions received at any other time will be processed the next Business Day.

### 3. AUTHORISATION AND SECURITY

#### 3.1 User Administrators

3.1.1 Every Intermediary Client must appoint two User Administrators.

3.1.2 The Bank will provide the User Administrators with a Client User ID and Password.

3.1.3 Each User Administrator is authorised by the Client to:

- 3.1.3.1 request the addition and/or removal of any Underlying Client and/or Account to/from the Service by providing the Bank with a completed Butterfield Online Intermediary Amendment form;
- 3.1.3.2 provide and control access by Users to the Service; and
- 3.1.3.3 assign authorisation levels to Users, if applicable.

#### 3.2 Joint Account Holders

3.2.1 Each joint account holder will be provided with a Client User ID and Password.

3.2.2 All account holders will sign the Butterfield Online Personal Application to confirm their joint agreement to use the Service on the terms and conditions set out in this document and the Terms.

#### 3.3 Client's Responsibilities

3.3.1 The Client understands and agrees that:

- 3.3.1.1 it has sole responsibility for selection, authorisation and removal of Users;
- 3.3.1.2 in the case of a Personal Client or a Corporate Client, it has sole responsibility for the selection, use, confidentiality and protection of the Client User ID and Password and for adding to, or removing from, the Service any Account or Portfolio;
- 3.3.1.3 in the case of an Intermediary Client, the User Administrators have full authority on behalf of the Client to deal with the matters set out in paragraph 3.1.3;
- 3.3.1.4 it is responsible for the acts and omissions of the User and User Administrators (if any) and will take all reasonable precaution to ensure that the Service is being used in a manner which is secure and in compliance with all Applicable Laws.

- 3.3.2 The Client must:
  - 3.3.2.1 keep the Client User ID and Password secret;
  - 3.3.2.2 take all reasonable precautions to prevent the fraudulent use of the Client User ID and Password;
  - 3.3.2.3 not record the Client User ID and Password in any way which may result in it becoming known to another person who is not a User; and
  - 3.3.2.4 ensure that the User does not leave the terminal or other device from which the Service has been accessed at any time or permit any other person to use it until that User has logged off the Service at the end of any session.

#### 3.4 User Identification

The Client undertakes to provide due diligence information to the Bank in respect of any User or User Administrator upon the request of the Bank.

#### 3.5 Breaches

- 3.5.1 If the Client or any User or User Administrator suspects that someone knows the Client User ID and Password or may be trying to access the Service without proper authority, the Client must notify the Bank immediately. Failure to do so will result in the Client being liable for any unauthorised transactions on the Account. The Bank is not liable to the Client for any loss that occurs as a result of a breach in the Client's security prior to receipt of notice of the breach by the Bank.
- 3.5.2 The Bank may at its discretion deny access to the Service if it believes that there has been a breach of security in the use of the Service.

#### 3.6 Security Measures

The Bank may introduce from time to time any security measures as it considers appropriate at its discretion and may require the Client to provide such additional information or indemnity in relation to any action taken or not taken by the Bank in respect of the Service.

### 4. INSTRUCTIONS

- 4.1 By agreeing to the terms of the Service the Client confirms it authorises any User to give Instructions in respect of the Account.
- 4.2 To the extent permitted by the Service, Instructions override any special signing or authorisation requirement applicable for paper based transactions in respect of any Account, and all such requirements will not be applicable when using the Service.
- 4.3 The Bank may, but is not required to make any enquiry into, or to seek confirmation from the Client or any other person, of any transaction made or Instruction issued by a User or User Administrator through the Service.
- 4.4 If an Instruction conflicts or is inconsistent with any existing mandates, agreements, authorities and arrangements between the Client and the Bank, the Instruction overrides all such mandates, agreements, authorities and arrangements.

### 5. REPRESENTATIONS AND WARRANTIES

In addition to the representations and warranties given by the Client in the Terms, the Client, if it is an Intermediary Client, further represents and warrants to the Bank that it is authorised to appoint the User Administrator and each User.

### 6. LIABILITY AND INDEMNIFICATION

#### 6.1 Liability

- 6.1.1 In the absence of negligence, wilful default or fraud on the part of the Bank, the Bank will not be liable for any loss or damage incurred or suffered by the Client or any other person as the result of or in the course of the provision of the Service.
- 6.1.2 The Bank will have no responsibility or liability for any act or omission of any third party or counterparties with whom transactions are entered into by or on behalf of the Client through the Service. In particular, the Bank will not be liable for any charges or penalties imposed or other action taken by a payee or merchant resulting from late or missed payment.

#### 6.2 Indemnification

- 6.2.1 In the absence of negligence, wilful default or fraud on the part of the Bank the Client will indemnify and keep indemnified the Bank and Bank Personnel against all costs (including the costs of taking legal and other professional advice), expenses, losses, liabilities, damages, claims, actions, proceedings or demands incurred or suffered by the Bank or any Bank Personnel arising from or in connection with the provision by the Bank of the Service and in safeguarding the Bank's interest.
- 6.2.2 The Client will indemnify the Bank against any and all costs, expenses, losses and liability incurred by the Bank as a result of:
  - 6.2.2.1 any representation and warranty given by the Client proving to be incorrect;
  - 6.2.2.2 the acts or omissions of the Client, any User or User Administrator;
  - 6.2.2.3 the non-adherence of the Client, a User or User Administrator to security measures introduced by the Bank, from time to time.

#### 6.3 The Terms

The liability and indemnification provisions set out in this document are in addition to the provisions set out in the Terms.

### 7. CHARGES, CHANGES, IMPROVEMENTS TO AND TERMINATION OF THE SERVICE

#### 7.1 Charges

- 7.1.1 The Bank currently does not charge any set-up or monthly fees for the Service. The Bank may levy a fee for using the Service on giving the Client at least thirty (30) days' notice or such other notice period permitted by the Terms.
- 7.1.2 The Bank's Charges apply to transactions made using the Service.

#### 7.2 Changes to the Service

The Bank may make changes to the Service including the rules of operation, accessibility, security procedures and provision, type and location of service resources, administration, features and functionality.

#### 7.3 Suspension of the Service

- 7.3.1 The Bank may in its absolute discretion from time to time suspend the Service:
  - 7.3.1.1 if it believes that the Service may be used in breach of Applicable Laws or by persons who are not authorised by the Client, or in any circumstances where the Bank may suspend operation of the Account under the Terms;
  - 7.3.1.2 in whole or in part for the purpose of undertaking general maintenance or other work on the Service. Where practicable and legally appropriate, the Bank will provide prior notification of such suspension.
- 7.3.2 If the Service becomes unavailable for any period of time due to technical or other reasons, the Bank will notify the Client of such unavailability via a broadcast message through the Service prior to login, or such other means which the Bank considers to be appropriate.
- 7.3.3 Unless the suspension has been on the grounds set out in paragraph 7.3.1.1, during any period of suspension or unavailability the Client and the Bank will deal with the Account as if the Service had not been in operation.

#### 7.4 Termination of the Service

- 7.4.1 The Bank may by notice to the Client terminate the Service without giving any reasons for its decision.
- 7.4.2 The Client may request the termination of the Service at any time by notice to the Bank.
- 7.4.3 Termination of the Service will not affect accrued rights, existing commitments or other provisions intended to survive termination.

## 7.5 Changes to the terms of the Service

- 7.5.1 The Bank may at any time make changes to any of these terms.
- 7.5.2 Subject to paragraph 7.1.1, any such changes may take effect without prior notice to the Client or on a date to be specified.
- 7.5.3 Changes will be posted on the Bank's website [www.gg.butterfieldgroup.com](http://www.gg.butterfieldgroup.com) within a reasonable period and may be separately notified to the Client.

## 8. EQUIPMENT AND SOFTWARE

- 8.1 The Client is responsible for:
  - 8.1.1 the installation, upgrade and maintenance of all hardware, software, and provision of telecommunications used by the Client, any User or User Administrator to access the Service;
  - 8.1.2 putting in place and maintaining adequate protection and back up of data and/or equipment and will take reasonable and appropriate precautions to scan for computer viruses or other destructive properties when using the Service; and
  - 8.1.3 its own expense in relation to the above.
- 8.2 The Bank provides the Service and any Account Data transmitted or accessed through it on an "as is" basis and does not make any express or implied warranties, representations, endorsements or conditions with respect to the Service or the Account Data, including any warranties as to merchantability, operation, noninfringement, usefulness, completeness, accuracy, currentness, reliability and fitness for a particular purpose. In particular the Bank does not represent or warrant that:
  - 8.2.1 the Bank's Website or Service will be operational or available at all times and meet the Client's requirements or that access will be uninterrupted,
  - 8.2.2 there will be no delays, failures, errors or omissions or loss of transmitted information during the use of the Service;
  - 8.2.3 the provision of the Service will be free of viruses or other contaminating or destructive elements which could be transmitted to or cause damage to the property of the Client, any User or User Administrator.
- 8.3 The Bank does not authorise its employees or agents to install, maintain, or otherwise modify any equipment, hardware or software, or telecommunications services of the Client, any User or User Administrator. The Bank will under no circumstances be liable for the performance of such equipment, hardware or software, or telecommunications services.
- 8.4 None of the Client, any User or User Administrator owns any copyright and other intellectual property rights in the Service or any material or information on the Bank's Website or the Service.

## 9. GENERAL

### 9.1 Accuracy of information provided by the Bank

The prices used in the Bank's portfolio valuations and information given, have been obtained from what the Bank considers to be reliable sources and should be used for indicative purposes only. The Bank is not liable for any errors or discrepancies in pricing or other information. Prices may go down as well as up.

### 9.2 Security policy

A copy of the Bank's security and privacy policy and data protection statement is available on the Bank's Website.

### 9.3 Applicable Laws

- 9.3.1 The information contained on this Service is not intended to constitute any offer to sell or invitation to buy any product or service by the Bank.
- 9.3.2 Access to information contained on the Bank's Website and this Service may be restricted by laws and regulations applicable to the Client. Where such restrictions apply, the Client must not access, and must restrict any User or User Administrator from accessing, the Service. The Client is liable for the consequences of any unauthorised access by or on behalf of the Client.
- 9.3.3 If the Client accesses or authorises access to the Service from a country or jurisdiction outside of the Island of Jersey, the Client will comply and will ensure compliance with the laws and regulations of that jurisdiction.

### 9.4 Records

- 9.4.1 The Client will hold all information, documentation and specifications relating to the Service as confidential and proprietary information belonging to the Bank.
- 9.4.2 If the Bank is a party to any dispute, the electronic records retained by the Bank will (except in the case of fraud or manifest error) serve as the sole and accurate record of the events and will be admissible in a court of law as such with equal evidential value as a duly authorised paper document.

## 10. THE TERMS

The Terms will apply to the provision of this Service as if the definition of the Terms included the terms set out in this document. If there is any conflict between the Terms and this document in relation to the provision of the Service the terms of this document will prevail, unless otherwise specified.

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