



**RICHMOND**  
FIDUCIARY GROUP

Terms and Conditions of Business

# Terms and Conditions

## Terms and Conditions of Business

As from 1 July 2011, the following Terms and Conditions will govern the basis on which we provide the Services to you and will be deemed to have been agreed by you by your acceptance of any of the Services. We contract on the basis of these Terms and Conditions only, and acceptance by us of any instructions from you shall be upon such Terms and Conditions and shall override any other terms and conditions stipulated or incorporated by you in your instructions or any negotiations, unless expressly agreed in writing by us.

A copy of these Terms and Conditions shall be sent by ordinary post or by email to you. A current copy of these Terms and Conditions will also be made available for inspection at our registered office in Guernsey during normal business hours. In addition, a current set of these Terms and Conditions will be made available on our website at [www.richmondgroup.uk.com](http://www.richmondgroup.uk.com).

RFGL reserves the right from time to time to vary or modify these terms and conditions to such extent as it shall see fit and any such variation or modification published on its website shall constitute due notice of such variation or modification to all interested parties.

## 1. Definitions and Interpretation

### 1.1 Definitions

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

*Business Day* any day on which banks are open in Guernsey (which for the avoidance of any doubt does not include any Saturday, Sunday or any bank holiday)

*Client, you or yours* any person to whom we provide the Services and, in the case of an individual, includes his heirs, personal representatives and assigns and, in the case of a body corporate, includes its successors and assigns

*Data Protection Legislation* The Data Protection (Guernsey) Law, 2001

*Employees* all directors, officers, employees, consultants and agents of us, including all directors, officers, employees, administrators, consultants or agents of RFGL or any of its subsidiaries or associated companies

*RFGL, we, our, us*, a company with limited liability registered in Guernsey with registered number 35600 whose registered office is at Richmond House, St Julian's Avenue, St Peter Port Guernsey and who is licensed under the Law

*Law* the Regulation of Fiduciaries, Administration Businesses and Company Directors, etc. (Bailiwick of Guernsey) Law 2000 (as amended)

*Managed Entity* any body corporate, trust, partnership, association or other person in respect of which services are provided

*Proper Instruction* instructions in respect of any of the matters referred to in this agreement, given or purported to be given by:

(i) prior to the incorporation of any Managed Entity, the Client, thereafter;

(ii) any of the directors, trustees or partners of the Managed Entity; or

(iii) the secretary of the Managed Entity; or

(iv) such persons as the Managed Entity has authorised to give the particular class of instruction in question. The Managed Entity will notify RFGL in writing of the names and addresses of the persons authorised to give instructions. Such notice in writing will be conclusive evidence of a person's authority to give instructions, until RFGL is provided with written notice to the contrary, without limitation to the means by which instructions may be given, instructions may be given by letter, fax, email or any means of electronic transmission in readable form in accordance with the Terms and Conditions

*Rates* schedule of our rates per hour and administrative charges, a copy of which is available on request

*Services* all services carried out or performed for or on behalf of, in connection with (whether before or after its establishment) any Managed Entity by us or any employee of RFGL (including without limitation the provision of trustees, directors and shareholders and the administration of such Managed Entity)

### 1.2 Interpretation

1.2.1 Headings in these Terms and Conditions are inserted for convenience only and shall be ignored in construing this Agreement.

1.2.2 Unless the context otherwise requires, words (including definitions) denoting the singular number only shall include the plural and vice versa.

1.2.3 Unless the context otherwise requires, words (including definitions) denoting the masculine gender only shall include the feminine or neuter and vice versa.

1.2.4 References to statutes and/or statutory provisions shall be construed as referring to such statutes or statutory provisions as respectively replaced, amended, extended or consolidated.

1.2.5 References to RFGL or the Client shall include a reference to any successor company and permitted assigns.

1.2.6 The expression "person" shall be construed to include references to any person, firm, company, fee earner, corporation or any agency of it.

## **2. Costs, Fees and Disbursements**

### **2.1 Fees**

2.1.1 We believe that fees for the Services should be fair and reasonable having regard to all the circumstances of the case. The circumstances which may affect the level of fees include the following, the:

2.1.1.1 time spent on the matter;

2.1.1.2 monetary amount involved;

2.1.1.3 level of complexity of the matter;

2.1.1.4 number and length of documents;

2.1.1.5 place and time of day at which the work was carried out; and

2.1.1.6 importance and urgency of the matter to the client.

2.1.2 Time spent on a matter is recorded by all of our employees and the total time recorded will be one, but not the only factor taken into account in assessing the level of fees to be charged.

2.1.3 The manager responsible for your work will always be willing to discuss the basis for charging a particular matter at the outset.

2.1.4 Where an estimate of fees is requested and given, it is only an indication of the amount anticipated as being the likely charge and shall not be regarded as an agreed fee for the work or transaction, unless specifically confirmed in writing as such by an RFGL director.

### **2.2 Interim Billing**

Unless we agree to the contrary in writing, we will render regular interim invoices, usually on a semi-annual basis in arrears. Fees for certain services are subject to an annual minimum, as set out in our schedule of charges available on our website. These minimum, charges will be invoiced annually in advance. Should the total work necessary in any calendar year outweigh any advance billing, we reserve the right to invoice any additional fees in arrears and will normally do so on a semi-annual basis.

### **2.3 Disbursements**

2.3.1 Disbursements, as these are incurred, will be added to the applicable interim or final invoice rendered. Depending upon the matter in question, we may request a payment on account of future costs to be incurred.

2.3.2 Disbursements may include, but are not limited to, filing fees, court fees, registration fees, Greffe fees, document taxes, courier fees and publication costs. Sundry disbursements will include post, telephone, fax and other disbursements recharged semi-annually as per our scale of fees.

2.3.3 The fees of any counsel (Guernsey or otherwise) or other advisors instructed by us on your behalf will not be included as disbursements in our invoice. You will be responsible for the settlement of such fees directly with such counsel and/or advisors.

### **2.4 General**

2.4.1 There is no value added tax on the provision of our services in Guernsey.

2.4.2 In the event that you terminate our appointment or for any reason the business does not proceed to completion, we shall be entitled to charge for the time spent in dealing with the business and a termination fee.

### **2.5 Payment**

2.5.1 All invoices are payable upon receipt. Interest at a rate of 2.5% per calendar month may be charged, at our discretion, on unpaid invoices.

2.5.2 Clients are expected to maintain a minimum balance of £5,000 in their account in order to facilitate the collection of fees.

2.5.3 Should you have any queries regarding your account once an invoice has been rendered for payment, please contact the account Manager responsible for the transaction on (+44) (0) 1481 713667 quoting the relevant invoice number.

## **3. Clients' Monies**

3.1 As a general rule, we will assist all Managed Entities in setting up their own bank accounts over which we will have control of day to day transactions, unless otherwise agreed with you.

3.2 Until such time as an account is opened on your behalf in accordance with Clause 3.1 above, it will be held in a clients' account.

3.3 We reserve the right to pay our fees and disbursements out of monies held for you in our clients', or your own account (as the case may be).

3.4 Interest will be allocated to money held in your account where it is received from the clearing bank.

3.5 We accept no liability as to the performance of whichever bank holds the clients' funds.

## **4. Complaints Procedure**

RFGL maintains a complaints procedure, full details of which are available upon request from the RFGL Compliance Department.

## **5. Termination**

5.1 You may terminate your instructions to us in writing at any time but we will be entitled to keep your papers and documents while there is money outstanding to us for our fees, charges, expenses and disbursements.

5.2 In some circumstances we may consider that we ought to stop working for you. We will continue to act for you on a particular transaction until its conclusion unless and until:

5.2.1 you do not produce requisite due diligence material (see Clause 14);

5.2.2 it is no longer appropriate or in your best interest for us to continue to act; and

5.2.3 there are fees which have been billed and which are overdue for payment.

5.3 If we cease to act for you, we will advise you in writing and you will be responsible for all work in progress, fees and disbursements up to the date of termination and for any costs and disbursements reasonably incurred in connection with the transfer of any work to another service provider in Guernsey, or elsewhere.

## **6. Non Exclusivity**

We reserve the right to provide the Service(s) to any other client at our discretion.

## **7. Conflicts of Interest**

We provide a wide range of services to a large number of clients and whilst we have procedures in place to try to prevent any conflict, it is possible that a conflict of interest may arise as a result. If we become aware, or are notified of a possible conflict of interest, you shall be notified and if possible procedures will be put in place to ensure confidentiality.

## **8. Indemnity**

8.1 You undertake at all times to hold us harmless and to indemnify us to the greatest extent permitted by law against all actions, suits, proceedings, claims, demands, costs, expenses and liabilities whatsoever which may arise from the provision of the Services by RFGL, other than liabilities arising from fraud, wilful default or gross negligence by us.

8.2 The provisions of this Clause are without prejudice to any other limitation of liability or indemnity given in favour of us and shall remain in full force and effect notwithstanding the termination of the Terms and Conditions.

8.3 Neither RFGL nor any of our Employees shall, in the absence of fraud, wilful misconduct or gross negligence, be liable for any losses suffered or incurred by the Company, arising out of any act or omission on the part of RFGL or our Employees in connection with its and/or their respective duties under this Agreement. In particular, neither RFGL nor any of our Employees shall incur any liability in respect of any action taken, or thing suffered by it and/or them in good faith in reliance upon Proper Instructions or any other document or communication believed to be genuine.

8.4 You irrevocably agree and undertake to indemnify us and our Employees against any losses, and to assume direct liability for any claim for losses, which may be brought against, suffered or incurred by us or our Employees in connection with the performance or non-performance of its and/or their respective duties under this

agreement, other than those arising out of the fraud, wilful misconduct or gross negligence of us or our Employees.

In particular, you irrevocably agree and undertake to indemnify us and our Employees against any losses, and to assume direct liability for any claim for losses, resulting from any action taken or thing suffered by it and/or them in good faith in reliance upon Proper Instructions or any other document or communication believed to be genuine.

## **9. Communication**

9.1 We will communicate with you by way of letter, fax, email, telephone or any combination of the above at the address or number last given to us by you in communication generally. We assume that you are willing to receive all general correspondence sent via email. You will inform us if you have specific confidentiality requirements, such as a requirement for encrypted emails. The cost of setting up any encryption facility on our system may be added as a disbursement at our discretion.

9.2 Should you not wish us to communicate with you via any particular method, you must instruct us accordingly.

9.3 To help RFGL to improve its service and in the interests of security, RFGL may without prior warning monitor and/or record all telephone calls with RFGL. Such recordings shall be and remain the sole property of RFGL and RFGL shall have the authority to deliver copies or transcripts of such recordings to any court, tribunal, arbitrator or regulatory authority of competent jurisdiction as it sees fit. RFGL shall be entitled to destroy such recordings at its sole discretion.

## **10. Storage of Client Documents**

10.1 After the completion of any matter, we are entitled to retain all papers and documents which have come into existence in the course of our acting for you until all fees and disbursements have been settled in full.

10.2 Thereafter, we will keep all documents, correspondence, memoranda and notes which have been created in the course of the instruction for such period as we consider appropriate. During this period we reserve the right, but have no obligation, to make electronic copies of any such documents, correspondence, memoranda and notes and, save for original signed documents, we reserve the right to destroy hard copies and store the remainder for filing electronically. After the period of continued retention (whether in electronic form or otherwise) of such documents correspondence, memoranda and notes (save for original signed documents) we have the right to destroy all such files unless you have requested in writing to the contrary at, or prior to, the conclusion of any matter in question. In accepting these Terms and Conditions you consent to the destruction of such files.

10.3 Should we need to retrieve files from storage, either in relation to new instructions to act for you (where the archived files are relevant) or where you have asked us to

retrieve specific documents or papers, we reserve the right to charge for such services.

## **11. Copyright etc.**

11.1 All correspondence, files and records (other than statutory corporate records) and all information and data held by us on any computer system is the sole property of RFGL for our own use and you acknowledge that you have no right of access or control over such information.

11.2 Our website ([www.richmondgroup.uk.com](http://www.richmondgroup.uk.com)) and all material contained in it, provides general information only. None of its content constitutes legal or professional advice, and it should not be relied upon as such. We do not accept responsibility for any loss which may arise from reliance on information contained in this website. We do not guarantee that documents or files within this website are virus-free. RFGL has tried to ensure that the contents and information it provides on its website is accurate at the time of posting. Unfortunately it cannot guarantee the accuracy of contents or information contained in its pages and any person using information contained in them does so entirely at their own risk. RFGL reserves the right to make changes without notice. All text, images and other content on this website is copyright of RFGL unless explicitly stated otherwise. It may only be downloaded or copied without first obtaining permission for personal, non-commercial use. If you wish to reproduce website content in any other way, or for any other purpose, you must first contact RFGL for permission. RFGL is not responsible for the contents, nor does it warrant the accuracy or reliability of any linked website. RFGL, to the extent permissible by law, excludes all liability which may arise from your use or reliance on the information or contents contained in the linked site. All trademarks on this site remain the property of their respective owners and are used for identification purposes only. Although care is taken to check and test material at all stages of production, RFGL cannot accept any responsibility for any loss, disruption or damage to your data or your computer system which may occur whilst using material derived from this website.

## **12. Data Protection**

12.1 RFGL shall process personal data in accordance with the Data Protection (Bailiwick of Guernsey) Law, 2001.

12.2 RFGL in the course of performing the Services may be required to provide information related to the Beneficiaries or the Managed Entity, to third party financial institutions, other service providers at which the Managed Entity maintains or opens an account or has a relationship in accordance with such institutions or service provider's due diligence requirements in accordance with the CDD procedures of those third parties. RFGL may provide such information as it deems to be in the best interests of the Managed Entity or its Beneficiaries.

12.3 RFGL may be obliged to give evidence and information to courts or authorities in connection with the

Beneficiaries or any Managed Entity. Disclosure will not normally be made to third parties other than financial institutions or service providers as described above unless required by law, a court order or any regulatory requirement or where failure to make such disclosure would, in the opinion of RFGL, be prejudicial to RFGL, the Beneficiaries or the Managed Entity.

## **13. Disclosure**

13.1 We shall not divulge or use for our own benefit any confidential information which we may obtain in relation to your affairs, except where required in the proper discharge of our duties under these Terms and Conditions or to any person to whom it has properly delegated any of its functions to enable them to perform their duties diligently and properly.

13.2 Notwithstanding the provisions set out in Clause 13.1 above, we may disclose information which would otherwise be confidential if, and to the extent that it is:

13.2.1 Required by law;

13.2.2 required or reasonably requested by any securities exchange, listing authority or regulatory or governmental body to which either party is subject or submits, wherever situated whether or not the requirement of the information has the force of law;

13.2.3 disclosed to your professional advisers, auditors and bankers;

13.2.4 information which has come into the public domain through no fault of either party, where such information as was in the party's possession prior to the date it was obtained in connection with the Services rendered under these Terms and Conditions, or where such information was obtained or independently developed by the party on a non-confidential basis (as long as the party does not know or have reason to know of any breach by such source of any confidentiality obligations with respect to its).

## **14. Acceptance and Client Due Diligence**

14.1 RFGL is subject to Guernsey's anti-money laundering legislation and legislation to counter the financing of terrorism and as such will not transact business for a Managed Entity until such time as its client acceptance procedures as may be in force from time to time have been completed to its satisfaction.

14.2 RFGL reserves the right to terminate the relationship (and any Administration Agreement or other agreement) between RFGL and any Managed Entity if its client acceptance procedures or due diligence requirements have not been completed or are not maintained to the satisfaction of RFGL within a reasonable period from the date of request by RFGL for any documents or information required in terms of its client acceptance and due diligence procedures.

14.3 In the event that the relationship between RFGL and any Managed Entity is so terminated in accordance with this clause, any funds (after the retention by RFGL of its fees due or outstanding at the date thereof and all expenses and liabilities properly incurred in the provision of the Services) which may be held at the date of such termination shall be returned only to an account with a regulated financial services institution held by such institution in the name of the Company or Beneficiary (as appropriate) or if the Beneficiary is deceased to his or her estate or if the Managed Entity is a Trust to an acceptable successor trustee or to the Trust's beneficiaries, as appropriate and at the discretion of RFGL.

14.4 On receipt of any monies, from time to time, from or on behalf of any Managed Entity, RFGL must be satisfied as to the propriety of the source of such funds and will not accept funds unless so satisfied.

## **15. Taxation**

We do not advise on any taxation issues relating to the individual matters under Guernsey law or otherwise. Furthermore, we may request to be provided with a copy of the tax advice received by you in respect of any matter.

## **16. Legal or regulatory Issues**

We do not advise on any legal or regulatory issues. We may request to be provided with a copy of any legal advice or regulatory advice received by you or request that you seek such advice.

## **17. Force Majeure**

RFGL shall have no liability for any failure or delay in the performance of its obligations hereunder or the provision of the Services or for loss or damage of whatever kind and wherever occurring resulting from factors over which it has no control including, but without limitation, acts of God, acts of civil or military authority or governmental acts, earthquakes, fires, storms, tempests, floods, terrorist acts, wars, civil or military disturbances, sabotage, epidemics, riots, accidents, labour disputes, strikes, industrial action, loss or malfunction of utilities, computers (hardware or software) or communication services, errors, omissions, distortions, interruptions and/or delays in transmissions or delivery of post or communications in any medium or format howsoever caused or for loss or damage of whatever kind and wherever occurring outside of RFGL's control.

## **18. Partial Invalidity**

If, at any time, any provision of these Terms and Conditions is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions of these Terms and Conditions nor the legality, validity or enforceability of such provision under the law of any other jurisdiction shall in any way be affected or impaired by it.

## **19. Joint and Several Liability**

Where the Client comprises of more than one person:

19.1 each such person hereby appoints the other such person(s) to act as his agent to exercise full power and authority in connection with the Services on his behalf; and

19.2 the obligations of the Client in connection with the transaction shall be joint and several.

## **20. Arbitration**

20.1 Both RFGL and the Client shall use all reasonable endeavours to negotiate in good faith and settle amicably any dispute arising from or in connection with these Terms and Conditions.

20.2 Either party may elect to submit any dispute between the parties arising from or in connection with this agreement and which is not settled by agreement in writing between the parties within thirty days after it arises to arbitration in accordance with the arbitration rules of the London Court of International Arbitration ("Rules") as in effect on the date of this agreement.

If one party so elects to submit any dispute to arbitration, the other party will be bound by this election.

20.3 Any such arbitration shall be conducted:

20.3.1 in Guernsey in the English language;

20.3.2 in accordance with the Rules; and

20.3.3 by a single arbitrator to be agreed between the parties or, failing such agreement within thirty days of the election to submit the relevant dispute to arbitration in accordance with this clause, by a single arbitrator appointed by the president for the time being of the London Court of International Arbitration.

## **21. Commissions etc.**

21.1 RFGL shall be entitled to retain for its own use any commissions, payments, benefit or profit, without the requirement to account for them or declare their receipt, and whether such commissions, payments, benefit or profit are payable customarily or by usage and whether it receives them as a result of:

21.2 any deposit, purchase, sale, lending or hypothecation, of investments or assets by RFGL relating to the assets of a Managed Entity, and whether acting as principal, agent, adviser or otherwise in connection therewith; or

21.3 any arrangement of asset, property or investment management or administration, custody, brokerage or insurance relating to the assets of a Managed Entity, and whether acting as principal, agent, adviser or otherwise in connection therewith; or

21.4 by reason of RFGL or any of its associates or subsidiaries acting as manager, administrator, trustee, investment adviser or banker to any investment or unit

trust, any shares or units of which form part of the assets of a Managed Entity; or

21.4.1 as a result of the appointment of any person within RFGL as a director or other officer of a Company or any company or any body corporate, any of the shares, stocks or debentures of which, for the time being, form part of the assets of a Managed Entity.

21.5 RFGL shall account for or declare to a Beneficiary the receipt by any part of RFGL of any commissions, payments, benefit or profit upon receipt of a written request from the Beneficiary to account for and declare the same but only to the extent that:

21.5.1 the request relates to commissions, payments, benefit or profit payable in respect of a Managed Entity in which the Beneficiary has a legitimate interest;

21.5.2 RFGL is able, having made all reasonable enquiries, to obtain details of the same.

## **22. Jurisdiction**

These Terms and Conditions shall be governed by and construed in accordance with the laws of the Island of Guernsey and the courts of the Island of Guernsey shall have non-exclusive jurisdiction regarding any dispute arising in respect thereof.

[www.richmondgroup.uk.com](http://www.richmondgroup.uk.com)

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