

# HFL LIMITED – TERMS & CONDITIONS

## INTRODUCTION

Our relationship with our clients is first and foremost about service. Naturally we have Terms and Conditions (“the Terms”), but because of our commitment to service we aim to make these as clear and as understandable as possible. In these terms we have therefore inserted some “Plain English” guidance notes as to what the Terms are intended to achieve.

These guidance notes are shown in a **white font on a purple background** so as to clearly distinguish them from the text of the Terms themselves. It is the text of the Terms that sets out the definitive legal and contractual arrangements between us, but we hope that you will find the guidance notes a useful indication of our intentions.

## TERMS AND CONDITIONS

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# HFL LIMITED – TERMS & CONDITIONS

## 1. DEFINITIONS AND INTERPRETATION

Who we are, who you are, and the services that we may provide to you. HFL has various subsidiary companies to provide specialist services, and when we talk about “We”, we mean any of the HFL companies. Similarly when we talk about “you”, we mean you personally as well as your trust, company or other entity, in whatever your role or position is in relation to that entity.

“Agreement” means any agreement in writing including, but not limited to, any letter of engagement or completed Information Form between you or the Client and HFL relating to the Services;

“Entity” means any Body Corporate, Foundation, Partnership, Trust, Association or other person in respect of which Services are provided.

“HFL”, “we”, “us” and “our” as the context permits means the Service Provider, which includes HFL Limited, its subsidiary companies (Adelphi Limited, Barnham Limited, Cavendish Securities Limited, Elan Holdings and Investment Limited, Forest Securities Limited, Heritage Property Holdings Limited, Heritage Trust Limited and Wigmore Secretaries Limited and any other subsidiary or associated companies), its affiliates and any successors in title and includes the Directors, Officers, Consultants and employees of HFL Limited.

“Client”, “you”, and “your” as the context permits means any person or entity to whom HFL provides Services or whom benefits from these Services and for individuals includes heirs, personal representatives and assigns, and for corporate entities includes their successors and assigns.

“Information Form” means the letter of engagement, completed Information Form or other written agreement sent by HFL to you or the Client, confirming the commencement of the business relationship with HFL.

“Reportable Person” means any person who is resident in a tax jurisdiction in respect of which there is an obligation to provide certain information about that person under the international agreements of Foreign Act Tax Compliance Act (“FATCA”) and Common Reporting Standard (“CRS”).

“Services” means all Services provided in connection with the establishment, management or administration by HFL of any Entity including the provision of Trustees, Councillors, Protectors, Partners, Directors and Shareholders, and all administration necessary to ensure the good standing and proper management of the Entity.

“Terms and Conditions” or “Terms” means these terms and conditions as from time to time amended. A copy of the current Terms and Conditions may be obtained from our website at [www.hfl.co.gg](http://www.hfl.co.gg)

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## 2. COMMUNICATIONS AND NOTICES

The basis on which we may act for you, or in some circumstances not do so. We may act on your verbal or written requests, however communicated. We may refuse to act if we think there is a problem with your requests.

- 2.1. You authorise us to accept requests from you or from any person whom we believe to be authorised by you. Such requests may be given orally, in writing, electronically or otherwise. We may act upon all requests as appear to us to be authentic.
- 2.2. We may refuse to act in accordance with any requests where, in our judgement, (a) the requests are unclear or are contradictory to the provision of the Services; or (b) the requests conflict with our duties as Trustee, Councillor, Director, Officer or Shareholder and/or relevant laws in force from time to time.
- 2.3. In accordance with our duties as Trustee, Councillor, Director or Officer and/or relevant laws in force from time to time we may take immediate action in respect of taking actions in the best interest of the Client or beneficiaries without necessarily seeking any guidance or professional advice prior to so acting. We shall not be liable for any of our actions or inactions in relation to this clause.
- 2.4. We shall not be liable for (a) any failure to comply with requests which are either not in writing, or are incomplete, illegible, ambiguous, or contain errors (b) the non-receipt of requests (c) acting on requests received from any person lacking authority but acting purportedly on the authority of the client.
- 2.5. We may communicate with you orally, in writing, by fax, electronically or by email. We accept no liability for any failure of delivery, corruption, virus infection, or unauthorised interception which may occur.
- 2.6. Any notice given in relation to the Terms shall be in writing by letter, fax or email and be sent to your last notified correspondence address. Any notice (a) posted shall be deemed to have been received five days after posting, (b) delivered by hand shall be deemed to have been delivered at the time of delivery, (c) sent by email or fax shall be deemed to have been delivered at the time of sending.

## 3. FEES, REMUNERATION AND EXPENSES

We set out the basis on which we will charge you fees and other expenses, and you agree to pay these when due. You also agree that all outstanding fees and expenses will be paid before any assets or structures are transferred out.

- 3.1. Our responsibility fees will be as agreed with you on the onset of our business relationship and advised to you in writing. We may vary our fees in line with increases in inflation and we reserve the right to vary our fees from time to time to account for increased levels of responsibility, the impact of regulatory obligations and international reporting requirements.

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- 3.2. We are entitled to the payment of our fees, expenses and any other sums owing to us from the assets of the Entity without your prior consent.
- 3.3. You agree to guarantee the payment of all monies due in accordance with this Agreement.
- 3.4. You will ensure that the Entity has sufficient funds to meet its liabilities under this Agreement.
- 3.5. All invoices are payable within 30 days of issue and interest at the rate of 2% per month may be charged on all overdue amounts.
- 3.6. You are not entitled to recover any part of the annual responsibility fee should this Agreement be terminated during the relevant year.
- 3.7. For the avoidance of doubt all fee amounts or any other amounts outstanding will be settled prior to any assets of the Entity, or the Entity itself (as applicable) being transferred to any other person.
- 3.8. In the event that you do not pay our fees or any other amount outstanding in full, we shall be entitled to procure the voluntary striking off or liquidation of the Entity (as applicable) or its removal from the relevant register maintained by the Registry of the relevant jurisdiction and the costs of doing so shall be borne by you or the Entity (as applicable).

#### 4. YOUR UNDERTAKINGS

The assets you may bring along to us are all legally acquired and held, and the structures that we administer for you will not be used for any illegal activities. You will keep us informed of anything that might affect our relationship, and you confirm that you have taken and will continue to take any tax, legal or regulatory advice that may be required now or in the future.

- 4.1. You undertake that:
- 4.2. All assets which are or will be introduced to the Entity have been lawfully introduced and are not derived from or otherwise connected with any illegal activity.
- 4.3. In respect of any assets transferred to the Entity, that all due taxes have been paid and that all information provided in connection with them are true and accurate.
- 4.4. The Entity will not be engaged or involved directly or indirectly with any unlawful activity or used for any unlawful purpose.
- 4.5. The Entity will not undertake any activities which will require a licence, consent or approval in any jurisdiction without first obtaining such licence, consent or approval or which will breach any conditions contained in any such necessary licence, consent or approval.
- 4.6. Where applicable you shall procure that the Entity complies with all filing requirements in any applicable jurisdiction and that all taxes and governmental dues payable by the Entity are discharged where necessary.
- 4.7. You shall keep us adequately informed of all business to be transacted in the name of or for the account of the Entity and of any event (including any actual or threatened litigation) of which we may not be aware and could have a material effect on the Entity or its assets or activities or upon our willingness to continue to provide the Services.

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- 4.8. You acknowledge that all investment carries a risk and that losses can occur regardless of past performance.
- 4.9. You have taken appropriate tax and other advice with regard to the establishment of the Entity and its proposed activities and for ensuring that the Entity complies with all applicable laws and regulations in all relevant jurisdictions and, if requested, will provide copies of advice relevant to our responsibilities and you understand that unaudited accounts will be prepared and can be made available to you annually, but that we do not provide tax or legal advice.
- 4.10. You will notify us immediately of any changes to the information provided to us in any letter of engagement or completed Information Form or other written agreement sent by HFL to you or the Client.

### 5. CLIENT DUE DILIGENCE

As is now standard practice in all reputable jurisdictions, we are obliged to undertake anti-money laundering and anti-terrorist financing checks. These apply both when a new relationship is commenced and when additional funds are received. If CCD checks are not completed satisfactorily we may have to terminate the relationship and/or return funds to the sender.

- 5.1. We are required by Guernsey's legislation to undertake anti-money laundering and anti-terrorist financing checks and procedures ("CDD Checks") and are unable to provide Services until these checks and procedures have been completed to our satisfaction. As a minimum we will generally require confirmation of identity and residence, the source of funds/wealth and such other information as we may at our absolute discretion require. Any information that we require must be provided to us within a reasonable period of time from when it has been requested.
- 5.2. In the event that CDD checks are not completed to our satisfaction or information that we requested has not been provided we reserve the right to terminate our relationship and the provision of Services.
- 5.3. If our relationship is terminated in accordance with the provisions above we shall return any funds received (less any fees, expenses or other costs properly due) to an account with a licensed financial services provider (e.g. Bank or investment company) held in your name or the name of the Entity as appropriate.
- 5.4. On or prior to our receipt of funds we must be satisfied as to the source of the funds and may refuse to accept the funds unless we are so satisfied. We must be provided with any information we may at our absolute discretion require to satisfy ourselves on the source of funds. If we are not satisfied on the source of the funds they will be returned (less any fees, expenses or other costs properly due) to an account with a licensed financial services provider held in your name or the name of the Entity as appropriate.

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## 6. NON-EXCLUSIVITY

We provide a range of Services to a range of clients, and do so on the basis that we are free to provide any service to any client.

6.1. We reserve the right to provide any Services to any client as may be required.

## 7. TAX, LEGAL AND REGULATORY ADVICE

We do not provide tax, legal or regulatory advice, which is why we require you to undertake that you have received this advice (N.b. See 4.8).

- 7.1. We do not provide tax, legal or regulatory advice in relation to Guernsey or any other jurisdiction.
- 7.2. We may require you to provide copies of any tax, legal or regulatory advice that you have received. We may also advise you to obtain tax, legal or regulatory advice and require you to provide us with copies of the advice received.
- 7.3. You acknowledge that we will not be liable for any tax, legal or regulatory consequences or issues arising directly or indirectly from our provision of Services to you.

## 8. CRS AND FATCA

- 8.1. For each Reportable Person we are obliged to provide the Guernsey Tax Authority with certain information which presently includes their name, address, jurisdiction(s) of residence, tax identification numbers, date and place of birth. In addition we must report the amounts of interest, dividends and other income generated and paid or credited to them, as well as the gross proceeds paid or credited to them from the sale or redemption of financial assets.
- 8.2. If an identified Reportable Person fails to co-operate with HFL regarding their tax residency and/or tax status, we are still obliged to disclose details to the Tax Authority if we believe a person is a reportable person based on the information held by us.
- 8.3. You will keep us apprised of any changes to your tax status, including any change of name, address, jurisdiction(s) of residence, or tax identification number(s).

## 9. DATA PROTECTION AND CONFIDENTIALITY

We need to hold and process your personal data. We will always do so in accordance with our legal and regulatory requirements and our commitment to the confidentiality of your affairs. There may be times when to comply with legal or regulatory requirements we will need to disclose your data to regulators, tax authorities or other parties, but we will only ever do so on the basis set out in the Terms.

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- 9.1 HFL obtains and processes personal data as a data controller. In our Privacy Notice we set out how we obtain and use personal data about you before and after your relationship with us, and your rights in respect of the personal data, all in accordance with the Data Protection (Bailiwick of Guernsey) Law, 2017 (“the DP Law”) and in accordance with the European Union General Data Protection Regulation (2016/679) (“GDPR”). We may update our Privacy Notice from time to time. A copy of the current version of our Privacy Notice may be obtained from our website at [www.hfl.co.gg](http://www.hfl.co.gg)

### 10. DOCUMENT RETENTION

We have a document retention policy and will keep documents and records for so long as we are required to do so. When they are no longer needed they will be deleted or destroyed. If our relationship terminates we may transfer documents and records to you or any new service provider.

- 10.1. Subject to any legal or regulatory requirements we will retain all documents and records (or copies thereof) provided to or created by us during the course of our providing Services to you for a minimum of 6 (six) years from the termination of our relationship.
- 10.2. Documents and records may be retained in paper or electronic format at our discretion and save as required by law or regulations we may delete or destroy any documents or records that we consider no longer need to be retained.
- 10.3. On the termination of our relationship we may, subject to our rights under clause 10.1 above and the payment of any outstanding fees expenses or other amounts due to us, we will hand over to you or the new service provider or such other party as may be appropriate the latest statutory records, documents and other records as may reasonably be required for the future administration of your affairs.

### 11. CLIENT MONEY

Client monies will always be kept separately from our own monies. We will generally achieve this for clients by setting up accounts over which we have control with banks or institutions of our choosing.

- 11.1. We do not provide banking facilities and will usually hold money on your behalf by setting up accounts in the name of the relevant entity that will be under our control.
- 11.2. We may set up accounts with any bank or institution of our choosing. We will not be liable for the acts, omissions, failure or insolvency of any bank or institution with whom we maintain an account on your behalf.

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## 12. SAFE CUSTODY

We will keep important records and documents in a safe place.

- 12.1. We will hold in safe custody deeds, documents and records of any kind that we consider appropriate to hold in this way. We will not be liable for the loss, damage of any items held in safe custody unless due to our fraud or gross negligence.

## 13. OUTSOURCING

We may delegate any part of our work for you to others.

- 13.1. Subject to any applicable legal or regulatory restrictions, we shall be entitled to delegate all or any part of our duties under the Terms to others.

## 14. INDEMNITY

If anything goes wrong you agree to indemnify us for any costs or liabilities that we incur, unless of course it is our fault, i.e. it is because of our fraud or gross negligence. You also agree that if something goes wrong we may take any steps that we consider necessary to protect the assets and structure(s), and we will not be liable for anything that goes wrong on account of circumstances beyond our control.

- 14.1. You undertake at all times to hold harmless and to indemnify us to the greatest extent permitted by law against all actions, suits, proceedings, claims, demands, costs, expenses and liabilities for which we (our agents and nominees) may become liable as a result of anything done or omitted to be done under this agreement other than liabilities arising from fraud, wilful default or gross negligence by us. You authorise us at your expense to take any necessary steps at our discretion to protect the assets of the Entity under our control but we shall not be bound to engage in legal action on behalf of the Entity without a further indemnity against costs and liabilities. We shall not be liable for any failure or delay in the performance of our obligations in connection with the Services arising out of circumstances beyond our control. Where a business or any interest therein is contained in the assets of an Entity we shall not be bound or required to interfere in its management or conduct.

## 15. TERMINATION

We may terminate our Agreement by giving you written notice, or if you are in breach of any undertakings you have given us, including your agreement to be bound by the Terms. If we do have to terminate our agreement we will still be entitled to be paid for the fees and expenses due up until then, and the indemnities that you have given us will continue to be in effect.



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15.1. We may cease to provide the Services and our Agreement shall terminate:

- following written notice for any reason whatsoever, such notice addressed to the party concerned at its address from time to time notified to the other, failing which the registered office or last known address of such party.
- if you fail to observe any of your obligations pursuant to this agreement
- if any information supplied or undertakings given by you are found to be untrue or misleading
- if we become aware that you or the Entity is or may become subject in any part of the world to investigation by any judicial or regulatory authority or that criminal proceedings are instituted or threatened against you or the Entity.

15.2. In the case of termination we shall be entitled to:

- our fees accrued to termination
- retentions against actual or contingent liabilities
- take such action as we deem necessary to limit such liabilities
- the benefit of the indemnities given by you which shall continue to have effect notwithstanding termination
- transfer the Entity to you and shall not be liable for any expense or other consequences that may arise as a result if you fail to provide alternative facilities for the Entity upon termination.

### 16. ASSIGNMENT

We may wish to transfer our rights, benefits or obligations under the Terms to another party. To be able to do this we need to be able to share information about you, but we will always endeavour to ensure that your confidentiality and privacy is protected in a similar way to that provided for in Clause 9 above. You are not permitted to assign or transfer your rights, benefits or obligations under the Terms (other than in accordance with your statutory rights under the DP Law) unless we agree in advance .

16.1. We may assign or transfer all or any part of our rights, benefits or obligations under the Terms. In order to make such assignment or transfer we may share information about you to prospective assignees or transferees, it being well understood that we will use reasonable endeavours to procure that such assignees or transferees are required to maintain your confidentiality and privacy at a level equivalent to that provided by clause 9 above.

16.2. You may not assign or transfer your rights under the Terms without with our prior consent, other than in accordance with your statutory rights under the DP Law.

### 17. FORCE MAJEURE

We cannot be held responsible for events that are beyond our control. In the event of exceptional circumstances arising that continue for an extended period and prevent us from providing services to you, we may have to terminate our relationship.

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- 17.1. We shall not be liable for any failure or delay in our performance of our duties or obligations where such failure or delay results from any cause that is beyond our reasonable control. Such cause include, but are not limited to: power failure, internet service provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond our control (“Force Majeure Events”).
- 17.2. If we are unable to perform our duties or obligations hereunder as a result of a Force Majeure Event for a continuous period in excess of 30 days, we may at our discretion terminate the Agreement by written notice at the end of that period. In the event of such termination, the Parties shall agree upon a fair and reasonable payment for all Services provided up to the date of termination. Such payment shall take into account any prior contractual commitments entered into in reliance on the performance of the Agreement.

### 18. LIEN

If any of our invoices remain unpaid we may keep hold of your records, documents or assets until they are settled. This applies in relation to any assets that we hold or are held on your behalf. If we cease acting for you we may retain your records, documents and assets until any outstanding accounts are settled, subject to your statutory rights under the DP Law.

- 18.1. In the event of the non-payment of any fees, expenses, disbursements or charges due to us or liable to be paid by us on your behalf, we shall have a Lien over, or a right to keep possession of, any documents, records, or assets belonging to or held on your behalf until all such outstanding fees, expenses, disbursements or other charges have been paid in full.
- 18.2. This Lien will apply to all documents, records and assets of any kind held in relation to any matter in connection with which we have provided Services to you.
- 18.3. On the termination of the Services a final invoice will be submitted to you and we may exercise this Lien until the final invoice and any other outstanding invoices have been settled in full.
- 18.4. Nothing in this clause 18 limits your statutory rights under the DP Law.

### 19. ANTI-BRIBERY AND CORRUPTION

As is now standard practice in all reputable jurisdictions, we are required to maintain Anti-Bribery and Corruption policies and procedures, which you have to comply with.

- 19.1. We maintain Anti-Bribery and Corruption policies and procedures in accordance with Guernsey regulatory requirements and the extra-territorial requirements of the Bribery Act (2010) of England and Wales.
- 19.2. We require you to comply at all times with our Anti-Bribery and Corruption policies and procedures, and to undertake that no assets received by us are derived from bribery or corruption and that no assets held by us on your behalf will be used for the purposes of bribery or corruption.

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## 20. SEVERABILITY

If anything in the Terms proves to be incorrect, illegal, or unenforceable, the validity of the remainder of the Terms will be unaffected.

20.1. If at any time one or more of the provisions of this agreement become invalid, illegal or unenforceable in any way, that provision will be severed from the remainder and the validity, legality and enforceability of the remaining provisions of these Terms and Conditions will not be affected or impaired in any way.

## 21. JOINT AND SEVERAL

If a Client comprises of more than one person, any one of those persons can act on behalf of the Client and any liabilities of the Client shall be joint and several to all those persons.

21.1. If the Client comprises more than one person:

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

(b) All the obligations of the Client in connection with the services shall be joint and several.

## 22. VARIATION

From time to time we may need to amend these Terms. We will usually give you notice of our intention to do so, unless an urgent amendment is required because of a change in the law or regulations.

22.1. We may amend these Terms and Conditions from time to time and a copy of the current Terms and Conditions may be obtained from our website at [www.hfl.co.gg](http://www.hfl.co.gg).

## 23. INTELLECTUAL PROPERTY

All the correspondence that we hold about you is and will remain our property, and you do not have any right to access it or to copies of it, subject to your statutory rights under the DP Law.

23.1 All correspondence files and records (other than statutory corporate records) and all information and data held by us on any computer system is our sole property for our sole use and neither you nor the Entity will have any right of access thereto or control over it. This provision does not limit the rights of individuals as provided under the Data Protection (Bailiwick of Guernsey Law), 2017.

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## 24. USE OF NAME

Our reputation is important and you may not use our name or contact details for your own purposes without our permission.

24.1. Our name, address, telephone numbers or email addresses may not be used for correspondence or marketing purposes or in any documentation without our prior written permission.

## 25. GOVERNING LAW AND JURISDICTION

Since HFL is based in Guernsey, the Terms and our agreement are all subject to the laws of Guernsey.

25.1 This agreement shall be governed by the laws of Guernsey.

## 26. COMPLAINTS POLICY

In the hopefully unlikely event that you should ever have any cause for complaint about us or our services, we have a written complaints policy that is available on request.

26.1 As part of our regulatory responsibilities, we take complaints very seriously and maintain a transparent and comprehensive set of procedures. We will endeavour to reply to all complaints within five working days of receipt.

26.2 A copy of our policy and the remedies available to you can be provided on request. You can request a copy of this policy either by post from Suite 1, First Floor, The Energy Centre, Admiral Park, St Peter Port, Guernsey, GY1 2BB. or via email to [admin@hfl.co.gg](mailto:admin@hfl.co.gg).