



## **TERMS FOR TRUSTEE SERVICES**

January 2022

## 1 INTRODUCTION

**1.1** These Terms apply to all Services that we provide to you whether or not any Contract refers to these Terms. Please read these Terms carefully to make sure that you understand them and agree with their contents and that they reflect our agreement with you in full. If you have any questions, please contact us and we would be happy to assist.

**1.2** These Terms are divided into 5 sections, as follows:

**Section 1** Introduction

**Section 2** Definitions and Interpretation

**Section 3** General Terms

**Section 4** Service Specific Terms

**Section 5** Our Website / Online Client Portal

**1.3** If you have any questions about points in these Terms, or our services generally, please do not hesitate to speak with your usual contact at ATL, or telephone us on **+44 (0)1534 828480**.

## 2 DEFINITIONS AND INTERPRETATION

### 2.1 In these Terms the following words and phrases have the following meanings:

**Accounting Service**

means the Services described in Clause 4.2.1;

**Accounting Service Client**

means a person to which we provide our Accounting Service;

**Applicable Laws and Rules**

means any law, order, regulation or other rule, sanction (including any trade, economic or financial sanction, embargo or other restrictive measure) or the terms of any permits, consents, licences, registrations or codes of practice, issued by any Competent Authority and applicable in any relevant jurisdiction;

**Applicant**

means the person for whom or on whose behalf or instruction we agree to incorporate, register, form or establish, or procure the incorporation, registration, formation or establishment of an Entity (whether in Jersey or elsewhere) under our Formation Service;

**ATL**

means Affinity Trust Limited, a company incorporated in Jersey with registered number 108361;

**ATL Group**

means ATL and all its subsidiary and holding companies from time to time, and the subsidiaries of such holding companies;

**Business Day**

means a day (other than a Saturday, Sunday or public holiday) on which banks are open for business in London and Jersey;

**CDD**

means client due diligence;

**Code of Practice**

means the Code of Practice for Trust Company Business issued by the JFSC;

**Commencement Date**

has the meaning given to it in Clause 3.26.4;

**Competent Authority**

means a court of competent jurisdiction or any governmental, taxation, regulatory or judicial authority;

**Compliance Officer**

means any person employed by us to fulfil the role of a compliance officer;

**Confidential Information**

means all information that we receive about you, your Employees or your Related Parties when providing the Services which you have told us is confidential or non-public or which, by its nature, would reasonably be regarded as confidential, non-public or proprietary, including any CDD information;

**Constitutional Documents**

means memorandum and articles of association, partnership agreement, instrument of association, trust instrument, trust deed, foundation charter and regulations or other constitutive document (as the case may be);

**Contract**

means these Terms, any relevant document referred to in these Terms and any applicable administration agreement, services agreement, engagement letter, application form, Fee Schedule, fee proposal, incorporation questionnaire or other terms agreed between you and us under which we are appointed to provide any Service;

**Director**

has the meaning given to it in Clause 4.4.1;

**Director Service**

means the Services described in Clause 4.4.1;

**Director Service Client**

means a person to which we provide our Director Service;

**Disruptive Event**

means any event, circumstance or cause beyond our reasonable control including natural disaster, fire, storm, flood, adverse weather, explosion, accident, act of God, any law or any action taken by any governmental or public authority, epidemic, pandemic, nuclear, chemical or biological contamination or other health emergency, war or threat of war, riot, civil disturbance, act of terrorism, strike, lock-out, industrial dispute, the imposition of sanctions, failure or interruption of any utility service or Electronic System or a cyber-attack, transportation or communication problems, network communication failure or interruption or any act of a criminal third party against us, you or any of our or your Related Parties, advisers, sub-contractors or suppliers;

**Electronic Communication**

means a communication between you and us by email or other electronic means;

**Electronic System**

means any electronic or storage device (including computers, laptops, smart phones and tablets), hardware, software, telephone or other communication system, server, cloud, back up mechanism or any analogous system, in each case which is owned or controlled by us, any of our Related Parties, our agents or our Employees;

**Employee**

means any partner, director, officer, consultant or employee;

**Entity**

has the meaning given to it in Clause 4.3.2(a);

**Fee Schedule**

means any schedule of fees and charges issued by us in relation to any of the Services which are incorporated into these Terms by reference;

**Formation Date**

has the meaning given to it in Clause 4.3.3(b);

**Formation Service**

means the Services described in Clause 4.3.2;

**Formation Service Client**

means a person to which we provide our Formation Service;

**GAAP**

has the meaning given to it in Clause 4.2.1(a);

**GST**

means goods and services tax;

**Guidance Notes**

means any guidance note applicable to us and issued by the JFSC;

**ISE**

means International Services Entity;

**JFSC**

means the Jersey Financial Services Commission;

**Liability**

means any loss, damage, expense, disbursement, cost or liability whatsoever (whether direct, indirect, punitive, consequential or otherwise and whether actual, contingent, present or future);

**Limited Service**

means the Services described in Clause 4.5.1;

**Limited Service Client**

means a person to which we provide our Limited Service;

**Minimum Balance**

has the meaning given to it in Clause 3.11.9

**Online Client Portal**

means the part of our Website which we have given you access to by means of providing secure login details;

**Outsourced Service Provider**

has the meaning given to it in Clause 3.19.1(a);

**Personal Representative**

means your executor, personal representative or equivalent appointed under Applicable Laws and Rules;

**Proper Instructions**

has the meaning given to it in Clause 3.6.2;

**Registered Office**

means First Floor, 27 Esplanade, St. Helier, Jersey JE4 9XJ or such other office as is notified to you by us from time to time;

**Related Party**

means any subsidiary, holding company, affiliate, beneficial owner or controller;

**Services**

means any service that we have agreed in writing to provide to you, including our services as detailed in section 4 of these Terms;

**Suspension**

has the meaning given to it in Clause 3.21.1;

**Tax Arrangements**

has the meaning given to it in Clause 3.16.2;

**Tax Information**

has the meaning given to it in Clause 3.9.1(a)(iii);

**Terms**

means these terms;

**Trust**

has the meaning given to it in Clause 4.6.1;

**Trustee Service**

means the Services described in Clause 4.6.1;

**Trustee Service Client**

means a person to which we provide our Trustee Service;

**UK**

means the United Kingdom;

**We, us or our**

means each member of the ATL Group which provides or arranges the provision of the Services or acts in any other capacity in relation to the Services;

**Website**

means [www.affinitypw.com](http://www.affinitypw.com) and includes the Online Client Portal; and

**You or your**

means any person we have agreed to provide the Services to in writing.

**2.2 In these Terms, unless the context otherwise requires:**

**2.2.1** words in the singular include the plural and the masculine gender shall include the feminine and the neuter and vice versa in each case;

**2.2.2** any words used after the terms "in particular", "include" and "including" or any similar term are illustrative and do not have a restrictive meaning;

**2.2.3** any reference to a "party" means a party to the Contract and includes any successor, permitted assignee or transferee of that party;

**2.2.4** any reference to a "person" includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and includes any successor, permitted assign or transferee of that person;

**2.2.5** any reference to a "subsidiary" or "holding company" shall be construed in accordance with Articles 2 and 2A of the Companies (Jersey) Law 1991;

**2.2.6** any reference to the Contract, Fee Schedule or any other document includes any supplement, update, amendment or replacement of it;

**2.2.7** any reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended, extended or re-enacted, with or without amendment;

**2.2.8** references to "£" are references to the lawful currency of the UK and Jersey;

**2.2.9** a reference to a Clause is to a clause of these Terms; and

**2.2.10** the headings in these Terms are inserted for convenience only and do not affect their interpretation.

**2.2.11** any words or phrases not defined in these Terms but defined in any Contract, unless the context otherwise requires, have the same meaning in these Terms and vice versa.

### 3 GENERAL TERMS

#### 3.1 Commencement, Scope and Effect

**3.1.1** These Terms apply to all Services that we provide to you, whether or not any Contract refers to these Terms, except that if there is any inconsistency between these Terms and any part of any Contract, that other part of the Contract prevails.

**3.1.2** Your conduct in instructing us or paying us for the Services is evidence that you accept these Terms in their entirety (subject to any variation in the Contract) and by continuing to use our Services you will be deemed to have accepted these Terms (subject to any variation in the Contract).

#### 3.2 Joint Clients

**3.2.1** Where you comprise more than one person:

- (a) your obligations under the Contract are joint and several;
- (b) each of you expressly, irrevocably and unconditionally abandons and waives any right which you may have at any time under the existing or future laws of Jersey:
  - (i) whether by virtue of the droit de discussion or otherwise to require that we first seek recourse against the assets of any other person before pursuing you; and
  - (ii) whether by virtue of the droit de division or otherwise to require that any of your liability be divided or apportioned with any other person or reduced in any manner whatsoever;
- (c) the limit of our liability in Clause 3.26.4 will be divided among all of you;
- (d) where we end the provision of Services to one of you, this will not automatically end the provision of Services by us to the other;
- (e) we may rely and act on any Proper Instructions received from any one of you (including a notice to terminate the Contract) provided that, where we receive Proper Instructions from one of you that conflict with Proper Instructions received by us from another of you, we may in our absolute discretion:

- (i) refuse to act on any such Proper Instructions until the conflict is resolved; or

- (ii) require that we receive instructions from all of you before undertaking any action in respect of the Services;

(f) unless we are instructed otherwise in writing by all of you, we will send all communications to all of you; and

(g) unless we are notified otherwise by all of you, where an asset is held by you jointly we will proceed on the basis that you hold that asset (however lodged with us or registered) from time to time as equal joint owners.

#### 3.3 Death of a Joint Client

**3.3.1** Unless we are notified otherwise by all of you, on the death of one of you we will proceed on the basis that the ownership of all assets (however lodged with us or registered) from time to time passes automatically to the surviving joint holder.

**3.3.2** The surviving client must notify us immediately of the death of another joint client and provide us with an original certified copy of the relevant death certificate.

**3.3.3** Unless we notify you otherwise, the Contract will continue in full force and effect notwithstanding the death or incapacity of any or all of you until we receive either:

- (a) notice of the death or legal incapacity of all of you; or
- (b) notice of termination from any one of you under Clause 3.22.1, in which case the Contract will be terminated in respect of all joint clients.

#### 3.4 Death of a Sole Client

**3.4.1** If you are a sole client, on your death we may continue to rely on any Proper Instructions you have given to us to provide the Services until such time as we receive notice of your death from your Personal Representatives along with any relevant documentation that we may require (such as an original certified copy death certificate, grant of probate or letters of administration).

**3.4.2** We will only act on the written instructions of your Personal Representatives in respect of the Services after we have received from your Personal Representatives an original certified copy of the relevant grant of probate or letters of administration (as the case may be).

**3.4.3** We shall not be liable to any person for any Liability incurred by your estate or any other person caused by us continuing to provide the Services during the period between:

- (a) your death and the receipt by us of notice of your death; or
- (b) your death and the receipt by us of an original certified copy of the grant of probate or letters of administration (as the case may be).

#### 3.5 Trustees and Corporate Clients

**3.5.1** Where you are acting as or instructing us in your capacity as a trustee you are exclusively responsible for compliance with any Applicable Laws and Rules or duties applying to such trusteeship.

**3.5.2** We may accept instructions in respect of the Services from one or more individual nominated trustees or their agent, provided that all the trustees jointly authorise us to accept instructions given in this manner, either in the Contract or by way of an original or original certified copy of an appropriate mandate to this effect.

**3.5.3** We may in our absolute discretion require sufficient evidence that a person is authorised to instruct us under its Constitutional Documents.

### 3.6 Communications

**3.6.1** All communications between us and you (including Proper Instructions), either oral or written, will be in the English language and made either in person, by telephone, by video call or in writing (including Electronic Communications in accordance with Clause 3.7).

**3.6.2** We may rely and act on any requests, notices, instructions or information, whether oral or in writing, given (or purportedly given) to us by any person who we know or reasonably believe to be authorised by you to communicate with us for the purpose of providing the Services ("Proper Instructions").

**3.6.3** We will not accept instructions on your behalf from a third party unless you instruct us to do so in writing which bears an original signature or you have provided to us a valid power of attorney.

**3.6.4** There are some circumstances in which we may only accept your written authority, bearing an original signature, including where you instruct us to amend material information in the Contract.

**3.6.5** We may record all telephone conversations and video calls and we may deliver a transcript of any telephone conversation or video call to any Competent Authority.

**3.6.6** We will not accept any communications or Proper Instructions through social media platforms.

**3.6.7** We are not liable for any Liability incurred by you or any other person caused by:

- (a) any lack of authority of any person we reasonably believed was capable of giving Proper Instructions;
- (b) any failure by us to implement a Proper Instruction where the Proper Instruction was ambiguous, incomplete or contained errors; or
- (c) any delay by us in acting on a Proper Instruction, unless such delay was the result of our negligence.

**3.6.8** Neither we nor any of our Employees shall do anything or be required to do anything which, in our or their sole opinion, may conflict with Applicable Laws and Rules or with your Constitutional Documents or expose any of them to any risk of civil or criminal liability or prosecution in any part of the world.

**3.6.9** Unless you notify us otherwise, we will assume that any Proper Instruction complies with your Constitutional Documents and any decisions made by your directors and members (if applicable).

### 3.7 Electronic Communications

**3.7.1** Subject to Clause 3.6 and the remaining provisions of this Clause, we or you may use Electronic Communications.

**3.7.2** You acknowledge the risks of instructing us using Electronic Communications and agree that Electronic Communications shall only constitute Proper Instructions where we have previously been advised of your current email or other electronic address.

**3.7.3** You acknowledge that the electronic transmission of information cannot be guaranteed to be secure, or virus, malware or error free and such information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or otherwise be adversely affected or unsafe to use. We are not liable for any Liability incurred by you or any other person as a result of any misdirection, either to or from you or another service provider, or any other risk referred to in this Clause 3.7.3 and you agree to accept these risks.

**3.7.4** We are not liable for any Liability incurred by you or any other person where we act on any Proper Instructions received by us electronically where the account of the sender was accessed, cloned or forged by an unauthorised third party, such that the Proper Instructions were given by that third party acting fraudulently, where that third party reasonably appeared to us to be a person authorised to give Proper Instructions.

**3.7.5** Where we receive any Proper Instructions or any other document that has been signed electronically, we will assume that such signature is in accordance with Applicable Laws and Rules.

**3.7.6** If you communicate with us from an email or other address which we do not recognise, we shall not be obliged to act on any Proper Instructions received from such address. We may cease or temporarily suspend Electronic Communications and begin communicating with you by post or by telephone if, in our reasonable opinion, we consider that this is prudent or necessary (for example, to ensure information security or if we receive an automatically generated message indicating that our Electronic Communication transmitted to you has failed to reach its intended recipient).

**3.7.7** We shall not be liable for any Liability incurred by you or any other person caused by the transmission or the reception of, or the failure to transmit or to receive, material where such transmission, reception or failure is caused by or relates to your own Electronic Systems or those of your Related Parties or of a third party unconnected to us.

**3.7.8** We shall not be liable for any Liability incurred by you or any other person caused by your failure to update the contact details that we hold on file for you.

### 3.8 Your Representations and Warranties

**3.8.1** You represent and warrant to us that the following confirmations are true and correct as at the date you enter into the Contract:

- (a) all information provided to us by you or on your behalf is true, accurate, complete and not misleading;
- (b) you have obtained appropriate independent taxation, legal and other professional advice in relation to the Services which we provide to you under these Terms/the Contract;
- (c) under your Constitutional Documents, you have the power to enter into the Contract and are not prohibited from entering into all or any part of the Contract and you have taken all steps necessary to obtain all authorisations required for you to enter into the Contract;
- (d) you are solvent and have not been subject to any insolvency procedure in any part of the world;
- (e) all assets being introduced by or contributed to you were lawfully introduced or contributed and were not derived from or in any way connected with any illegal activity in any part of the world;
- (f) neither you nor (to the best of your knowledge) any of your Related Parties or your Employees are or have ever been involved in, directly or indirectly, any activity which:

- (i) is illegal in any part of the world; or
- (ii) has infringed or attempted to avoid or evade any sanctions in any part of the world; and
- (g) neither you nor (to the best of your knowledge) any of your Related Parties or your Employees, agents or service providers have been involved in, directly or indirectly, any activity which has breached any anti-bribery and corruption or tax evasion laws in any part of the world.

### 3.9 Your Undertakings

**3.9.1** You undertake to us for the duration of the Contract that:

- (a) you will promptly provide to us, on request, any original document, copies of documents or other information (together with certified translations if not in the English language) required to enable us to provide the Services, including any information on you or your Related Parties or your Employees which may be required to enable us to:
  - (i) complete any anti-money laundering and terrorist financing checks at any time under our policies and procedures (including information on source of wealth and source of funds);
  - (ii) verify the capacity of a person to give Proper Instructions on your behalf; or
  - (iii) confirm an individual's status for tax purposes in his country of residence and/or domicile or nationality (including confirmation of an individual's Taxpayer Identification Number in his country of tax residence or suitable alternative confirmation) (the "Tax Information");
- (b) any information provided to us will be true, accurate, complete and not misleading and you will inform us, without delay, of any material changes or additions to the information previously provided to us (including to any email address which we should use to communicate with you under Clause 3.7);
- (c) you will use your best endeavours to comply with Applicable Laws and Rules;
- (d) you will not do anything or allow anything to be done which would impose or be likely to impose any civil or criminal liability on us, our Related Parties or any of our Employees whom we may nominate to hold any office or employment with you;
- (e) where we provide you with directors or officers, you will make sure that no corporate action is taken nor any documents are signed by you or on your behalf without the prior knowledge and consent of that director or officer;
- (f) all assets which will be introduced by or contributed to you will be lawfully introduced or contributed and will not be derived from or in any way connected with any illegal activity in any part of the world;
- (g) neither you nor (to the best of your knowledge) any of your Related Parties or your Employees will be involved in, directly or indirectly, any activity which:
  - (i) is illegal in any part of the world; or
  - (ii) infringes or attempts to avoid or evade any sanctions in any part of the world;
- (h) you will promptly notify us if you, or (to the best of your knowledge) any of your Related Parties or your Employees, agents or service providers are investigated, prosecuted or convicted of any offence under any anti-bribery and corruption or tax evasion laws in any part of the world; and
- (i) you will promptly pay to us all fees and disbursements incurred by us in connection with the provision of the Services.

### 3.10 Credit Searches

**3.10.1** From time to time we may ask credit reference agencies and other service providers to carry out searches about you for the purposes of verifying your identity. We will record details of the search whether or not we accept your business. We may also check your details with fraud prevention agencies and, if you provide false or inaccurate information and we suspect fraud, we will record this. We may use scoring methods to assess any application form that you provide to us and to verify your identity.

**3.10.2** Credit searches and other information which is provided to us and/or the credit reference and fraud prevention agencies about you and those with whom you are linked financially may be used by us and other companies if you, or other members of your household, apply for other facilities including credit and insurance applications and claims. This information may also be used for debt tracing and recovery and the prevention of fraud and/or money laundering.

### 3.11 Charges

**3.11.1** We will charge you for each of the Services as set out in the Contract or as otherwise agreed between us and you from time to time. By accepting the provision of Services by us you agree to pay us our charges when these fall due, which may be automatically deducted from your assets held under our control.

**3.11.2** We are entitled to charge you:

- (a) our fees for providing the Services as set out in the Contract or any applicable Fee Schedule; and
- (b) any Liabilities properly incurred by us in the provision of the Services.

**3.11.3** Fees charged for the Services provided to you shall normally comprise a non-refundable standard or fixed fee payable quarterly, six monthly or annually in advance, time-spent charges and any additional special fees for providing additional services which do not form part of the Services. The need for time to be spent or additional services to be provided to you during a period is at our sole determination and we shall not require your prior approval before spending time or providing such additional services.

**3.11.4** Fixed or standard fees for Services will be invoiced quarterly, six monthly or annually in advance and time spent fees will be invoiced quarterly in arrears as soon as practicable after the end of each quarter in relation to Services provided to you.

**3.11.5** Fees for time spent and additional services provided to you are based on a number of factors including any or all of the following:

- (a) the time spent;
- (b) whether the work required to be done was of a routine nature or in connection with a specific transaction;
- (c) the complexity and/or value of your business, whether generally or in relation to the specific transaction;
- (d) the amount of information or volume of documents which had to be reviewed in connection with your business or the transaction;
- (e) the importance and urgency of any actions required to be taken in connection with your business; and
- (f) the place and time at which any of the work was required to be done for you.

**3.11.6** We may appoint any law or accountancy firm to provide legal, tax and accounting services in connection with your affairs. Fees or disbursements incurred may be billed either separately or at the time of the next quarterly bill for time spent and Services rendered by us. An annual compliance disbursement is payable to us to reflect the on-going reporting obligations that we have.

**3.11.7** Any variations to the fees set out in any Fee Schedule applicable to the Services provided to you must be agreed in writing between us and you. No departure from our standard Fee Schedules will be accepted, unless there is evidence in writing of an agreement to charge other than on the basis of the Fee Schedules applicable to you.

**3.11.8** We have the right to review the fees charged as specified in any Fee Schedule and may apply any such varied or increased fee levels to you with effect from the date upon which any revised Fee Schedule is deemed to come into force, provided always that we will give notice to you of any revisions to our applicable Fee Schedule either before any such revision comes into effect or within a reasonable period after such revision has come into effect but in each case before any invoice is rendered in respect of the revised fees. All fees will be subject to an annual increase to reflect inflation in line with the Jersey Retail Price Index.

**3.11.9** A minimum balance of £10,000, or non-Sterling equivalent, or one years' fees, whichever is the greater, must be maintained by you with us at all times to ensure sufficient funds are available to settle fees, disbursements and expenses incurred in connection with the Services (the "Minimum Balance").

**3.11.10** You agree that, where minor variances arise through the settlement of fees by you, we may retain and donate such amounts periodically to a charity of our choice.

**3.11.11** In providing the Services, we may (if we in our absolute discretion consider it to be appropriate) arrange for you to be listed as an ISE for the purpose of the relevant GST regulations in Jersey. We may charge an administration fee in connection with any such listing as an ISE and may also charge as a disbursement any ISE fee paid or payable to a relevant tax authority in Jersey in connection with any such listing. Additional work in connection with your ISE status may be charged as additional time spent on the basis set out in Clauses 3.11.3, 3.11.4 and 3.11.5 above.

**3.11.12** Where we are obliged to charge GST or other similar tax in respect of the Services, the relevant charge will be added to the fees charged to you at the applicable rate from time to time in force. Any estimate or quotation given by us in relation to fees is exclusive of GST or any other similar tax unless we expressly notify you otherwise.

### **3.12 Payment Terms**

**3.12.1** You must pay to us all fees, taxes, disbursements and expenses in Sterling on the invoice date, unless otherwise agreed.

**3.12.2** We may apply and charge interest at the rate of 1.5% per month compounded annually in respect of all fees, taxes, disbursements and expenses which remain outstanding for more than 30 days from the invoice date.

**3.12.3** We may deduct any outstanding amount due from you (or where we provide the Trustee Service, the Trust) to us or set off any outstanding amount due from us to you (or where we provide the Trustee Service, the Trust) from assets that are under our control (including the Minimum Balance), without your prior approval or consent.

**3.12.4** All invoices raised by us will be deemed to have been accepted by you unless we receive notification from you that you dispute the invoice within 30 days of the invoice date.

### **3.13 Client Money**

**3.13.1** We may collect monies due to us in respect of fees, taxes, disbursements and expenses for Services from any bank account we maintain for you (or where we provide the Trustee Service, the trustee of a Trust), whether in your name or our name. Any monies required to settle our fees, taxes, disbursements and expenses due for the Services may immediately be debited to any such account for the credit of any of our accounts, and we shall immediately become entitled to all such monies.

**3.13.2** Monies transferred to any of our accounts in respect of all fees, taxes, disbursements and expenses which we have duly invoiced, whether in arrears or in advance, under Clause 3.13.1 shall not accrue interest for your benefit (or where we provide the Trustee Service, the benefit of the trustee of a Trust).

**3.13.3** We are not responsible for complying with any reporting requirements outside Jersey in relation to interest earned on monies held in any of our clients' accounts nor in any of your accounts that we maintain for you.

**3.13.4** We shall not be liable in any circumstances for any Liability you incur caused by the default by or insolvency of a third party (including a bank, agent or broker) which holds your money for you (or where we provide the Trustee Service, the trustee of a Trust) from time to time, whether the account is in our name or your name. We are not responsible for seeking or undertaking any due diligence on any such third party in advance of placing your money with that third party.

**3.13.5** Where we hold money for you overseas, or we need to pass it to an overseas person (such as a bank, agent or broker) we look for similar safeguards to those pertaining to your money held in Jersey, but these may be less secure. In particular you understand and agree that:

- (a) the legal and regulatory regime which applies to the relevant overseas person will be different from that of Jersey, and in the event of default by such person your money may be treated differently from the position which would apply if the money was held by a financial institution in Jersey;
- (b) it may not be possible (for example for reasons of local legislation) for us to require any overseas bank to acknowledge that it accepts that it has no right of set-off or counterclaim against money held for you in a client bank account in respect of any sum owed on any other account of ours; and
- (c) if you instruct us in writing, before entering into a transaction, that you do not want your money held in a bank in a particular country or jurisdiction then we will place it elsewhere for you, or return it to you.

**3.13.6** Save where you notify us otherwise, we shall be entitled to allow your account to become overdrawn from time to time when we are of the opinion that such action is necessary or desirable in order to allow us to fulfil our duties to you pursuant to the Contract. By signing the Contract you give us your consent to your account becoming overdrawn in such circumstances.

**3.13.7** Money transferred to any of our client accounts may not accrue interest for your benefit. Where any bank charges or negative interest rates apply, any such charges are payable by you and may be deducted directly from funds that we hold for you without prior notice to you.



**3.13.8** Where we hold money for you, your money will be segregated from our money and held in a designated account and will not be mixed with funds for other persons which are our clients without your prior consent, with the exception of funds transferred to our client account which you acknowledge and agree may be pooled with funds belonging to other persons which are our clients provided such funds are separately identified as belonging to you.

**3.13.9** Interest at the prevailing bank rate for the designated account will be paid from time to time on all cleared balances at a frequency applicable to the respective account. Details of the applicable interest rate and payment frequency are available on request.

**3.13.10** The government of Jersey does not levy any withholding tax on interest as a matter of Jersey law save where the recipient of the interest is a Jersey resident tax payer.

### 3.14 Commissions

**3.14.1** Save as otherwise agreed between us and you, we may retain any commissions or other payments customarily or by usage payable as a result of transactions entered into for your account without any liability to account to you (or where we provide the Trustee Service, the Trust) for such commissions or other payments.

**3.14.2** Notwithstanding Clause 3.14.1, we do not retain any introductory commissions from third party service providers as a term of doing business.

### 3.15 Unclaimed balances

**3.15.1** We may cease to treat any funds allocated to your (or where we provide the Trustee Service, the trustee of a Trust) account as client money in circumstances where:

- (a) such funds remain unclaimed;
- (b) there has been no movement on your account for six years (other than any payment or receipt of charges, interest or similar items); and
- (c) we have written to you (or where we provide the Trustee Service, the beneficiaries of a Trust) at your last known address (as shown in our records) informing you that the funds will no longer be treated as client money and giving you not less than 30 days to claim such amounts.

**3.15.2** Subject to Applicable Laws and Rules, we will donate any funds that are no longer treated as client money pursuant to Clause 3.15.1 to a charity of our choice.

### 3.16 Taxation

**3.16.1** If you are a taxpayer and/or resident outside Jersey or hold non-Jersey investments you may be liable to account to non-Jersey tax authorities for any capital or income earned. You are solely responsible for fulfilling your obligations in relation to these matters and we are not responsible for complying with, or ensuring you comply with, any reporting requirements outside Jersey.

**3.16.2** Where, due to either Applicable Laws and Rules or to arrangements that we or the States of Jersey have entered into with foreign tax authorities ("Tax Arrangements"), we are required to identify your tax status and/or withhold tax, then you agree to provide us with all information as may be required and you further confirm that in the absence of all requisite information we may undertake steps including:

- (a) notifying the relevant tax authority; and
- (b) withholding the appropriate level of tax.

**3.16.3** You agree that we may disclose any information and data relating to you or your affairs (or relating to any other party, or the affairs of any other party, which is connected with or has an interest of any kind in the Services which we provide to you under the Contract from time to time) to any relevant tax authority to the extent required by Applicable Laws and Rules or Tax Arrangements.

### 3.17 Our role

**3.17.1** We do not provide any legal, tax, accounting or economic substance advice in connection with our provision of the Services to you or on any matter generally.

**3.17.2** We are under no obligation to, and we accept no responsibility or liability to you for, checking if any advice provided to you by a third party is or remains correct.

**3.17.3** We may rely on any information that we receive from you or your representatives or advisers in the course of providing the Services.

### 3.18 Services Provided By Other Parties

**3.18.1** Where we consider it necessary or appropriate as part of the provision of the Services to seek professional advice or services from any third party advisers or service providers, whether in Jersey or elsewhere, then we have the right (exercisable in our absolute discretion) to obtain such advice or services from third parties without requiring your prior consent and you will be responsible for paying the fees, taxes and disbursements of any such third party adviser or service provider.

### 3.19 Outsourcing and Delegation

**3.19.1** You agree that:

- (a) we may outsource the provision of any of the Services that we provide to you to a third party sub-contractor (an "Outsourced Service Provider"); and
- (b) the terms of such outsourcing may permit further sub-outsourcing, provided that we use reasonable endeavours to make sure that any sub-outsourced service provider is subject to appropriate data protection and confidentiality obligations.

**3.19.2** If we outsource the provision of any of the Services to an Outsourced Service Provider, we will retain responsibility to you for ensuring that the Services are provided to you in accordance with the Contract and any rights you have in connection with the provision of the Services under the Contract are exercisable only against us and not against any Outsourced Service Provider.

**3.19.3** We may not delegate to a third party our responsibility to provide the Services to you unless you have given your prior written consent.

### 3.20 Disruptive Events

**3.20.1** If any Disruptive Event occurs, we will take all reasonable steps to continue to provide the Services or to restore provision of the Services as soon as practicable.

**3.20.2** We shall not be liable for any delay or failure in performing the Services or for any disruption to you or any Liability incurred by you or for any other consequences caused by a Disruptive Event.

**3.20.3** As soon as reasonably practicable after the start of a Disruptive Event, we will:

- (a) notify you of the Disruptive Event, the reason for a delay or failure in performing any Service and the likely length of the delay or failure; and
- (b) take reasonable steps to mitigate the effect of the Disruptive Event on the provision of the Services.

**3.20.4** If we deliver a notice to you under Clause 3.22.3, our obligation to provide any Service is suspended whilst the Disruptive Event continues and we shall have an extension of time equal in length to the period of suspension to allow us to perform our obligations under the Contract.

### 3.21 Suspending the Services

**3.21.1** We may delay, suspend or refuse to provide any Service or to act on any Proper Instructions (a "Suspension") at any time if:

- (a) you fail to pay any amount due to us on the due date for payment;
- (b) we consider, in our absolute discretion, that we must do so:
  - (i) under Applicable Laws and Rules or pursuant to any request or order of a Competent Authority;
  - (ii) to prevent us or any of our Employees breaking Applicable Laws and Rules or being exposed to a risk of civil or criminal liability in any part of the world;
- (c) we consider, acting reasonably, that you have failed to perform your obligations under the Contract; or
- (d) we notify you, under Clause 3.22.3, that a Disruptive Event has occurred.

**3.21.2** Subject to Applicable Laws and Rules, we will notify you of a Suspension. We are not liable for any Liability incurred by you or any other person caused by a Suspension.

### 3.22 Termination

**3.22.1** You may terminate the Contract (either absolutely or in respect of the provision of particular Services) at any time by giving not less than 3 months' notice to us and such notice will take effect on the date that we receive it.

**3.22.2** We may terminate the Contract (either absolutely or in respect of the provision of particular Services) at any time, and without giving you any reason for such termination, by giving to you at least 10 Business Days' prior notice.

**3.22.3** Notwithstanding Clause 3.22.2, we may terminate the Contract (either absolutely or in respect of the provision of particular Services) with immediate effect at any time, and without giving you any reason for such termination, by giving notice to you where:

- (a) we are required to terminate the Contract due to a change in Applicable Laws and Rules or for any regulatory, legal or any other reason;
- (b) you or any of your Related Parties or your Employees is or has been:
  - (i) charged with any criminal offence involving dishonesty;
  - (ii) the subject of any criminal, judicial or regulatory investigation in any jurisdiction; or
  - (iii) we suspect that any such person may have broken any Applicable Laws and Rules;

(c) you are in material breach of and/or have persistently breached any of your obligations under the Contract;

(d) you have failed to supply any CDD information or Tax Information required by us or any CDD information or Tax Information is deemed by us in our absolute discretion to be deliberately false or misleading;

(e) you are insolvent or likely to be declared insolvent, en désastre or subject to a creditors' winding up or any equivalent or similar procedure in any jurisdiction;

(f) we consider it necessary or appropriate because a conflict of interest has arisen;

(g) any representation given by you under the Contract is untrue, inaccurate, incomplete or misleading;

(h) you breach any warranty or undertaking under the Contract;

(i) there has been any change in your ownership;

(j) any fees, taxes, disbursements or expenses invoiced by us have remained outstanding and unpaid in whole or in part for more than 60 days after the due date for payment; or

(k) a Disruptive Event continues for more than 30 consecutive days,

**3.22.4** The Contract terminates automatically (without notice from either party being required) upon:

(a) you being wound up, liquidated, dissolved, struck off or subject to any equivalent action in any jurisdiction; or

(b) us completing provision of the Services.

### 3.23 Indemnity

**3.23.1** The indemnity in Clause 3.23.2 is in addition and without prejudice to any separate indemnities set out in the Contract.

**3.23.2** Subject to Clause 3.23.3, to the greatest extent permitted by Applicable Laws and Rules, you shall indemnify immediately on demand and on a full indemnity basis and hold harmless us, our Related Parties and our Employees against any Liability arising from:

(a) entering into, performing, suspending or terminating any Service;

(b) your breach of the Contract; and

(c) any actions, suits, proceedings, accounts, claims or demands brought or made against us, our Related Parties or our Employees.

**3.23.3** The indemnity in Clause 3.23.2 does not apply to any Liabilities incurred by us as a result of our fraud, wilful default or gross negligence or that of our Related Parties or our Employees.

**3.23.4** We may in addition to the indemnity given by you in Clause 3.23.2 require you to purchase and pay for out of your own assets suitable professional and/or directors' and officers' and/or trustees' insurance cover and include any member of the ATL Group, their Related Parties or their Employees under the terms of such policy.

### 3.24 Liability

**3.24.1** The exclusions and limitations of liability in this Clause are in addition and without prejudice to any separate exclusions and limitations of liability set out in the Contract.

**3.24.2** We shall not be liable to you for any Liability incurred by you in connection with the provision

of or termination of the Services, save where such Liability is incurred directly as a result of our gross negligence, fraud or wilful default, with the intent that any and all Liability on our part is excluded to the greatest extent permissible by Applicable Laws and Rules.

**3.24.3** Without prejudice to the generality of Clause 3.24.2, we shall not be liable to you for:

- (a) any Liability you incur in connection with the Services which was not reasonably foreseeable by us;
- (b) any fall in the value of your assets;
- (c) any taxation charges which you may incur;
- (d) any loss of profit or loss of opportunity;
- (e) any Liability you incur in connection with the Services that is caused by any partial or total failure or interruption of an Electronic System or any service provided to us, our Related Parties or any of our agents by any third party provider (including a telecommunications, cloud or internet service provider) which affects an Electronic System;
- (f) any Liability you incur in connection with the Services that is caused by an act or omission of a third party (other than an Outsourced Service Provider) including any failure of a payment system, any payment fraud perpetrated against you (or where we provide the Trustee Service, the trustee of a Trust) and any failure of a delivery or telecommunications provider which results in us not receiving a communication or receiving a communication late; or
- (g) any Liability you incur caused by any termination of the Services, any Suspension or a delay in executing a transaction for reasons of compliance with anti-money laundering and terrorist financing procedures or where undertaking a transaction would constitute an offence under Applicable Laws and Rules relating to anti-money laundering and terrorist financing, in each case even if the same arises as a result of our breach of the Contract.

**3.24.4** In any event our maximum liability arising out of the provision of the Services is limited to the lower of:

- (a) the amount of the Liability incurred as a direct result of our act or omission;
- (b) the sum of 10 times the amount of the fees invoiced and collected by us in respect of the Services in the 12 month period immediately preceding the relevant Liability being incurred by you; or
- (c) £1,000,000, unless your claim arises as a direct result of our fraud or wilful default.

**3.24.5** If both us and a third party are responsible for the same Liability incurred by you, our maximum liability arising out of the provision of the Services is limited to a fair and reasonable proportion of such Liability after taking into account:

- (a) any contributory act or omission (or any contributory negligence of you or any other person);
- (b) any amount which you or any other person would have been entitled to recover from any other third party in the absence of any exclusion or limitation of liability agreed between you and such other third party; and
- (c) the extent of our responsibility.

**3.24.6** Any claims brought or made by you against us, whether in contract or tort (including negligence) or under statute or otherwise must be brought or made:

(a) where the Services are still being provided, within 3 years of the date on which the work giving rise to the claim was performed; or

(b) if the Contract has been terminated, within 3 years of the date of termination.

**3.24.7** For the purposes of Clause 3.24.6, a claim is deemed to have been made when proceedings are commenced before a court of competent jurisdiction or other dispute resolution body.

**3.24.8** Unless permitted by Applicable Laws and Rules, you must bring any claim in connection with the provision of the Services against us and you have no claim against any of our Related Parties or Employees.

**3.24.9** No statutory terms, rights, duties or liabilities imposed by the Supply of Goods and Services (Jersey) Law 2009 apply to the Contract.

**3.24.10** Nothing in this Clause 3.24 limits or excludes any Liability which cannot lawfully be limited or excluded under Applicable Laws and Rules.

### 3.25 Conflicts of interest

**3.25.1** We maintain a conflicts of interest policy in order to identify circumstances which constitute or may give rise to a conflict of interest entailing a material risk of damage to your interests or the interests of another person which is our client. This policy also sets out the procedures that we follow and measures that we adopt in order to manage such conflicts. A summary of our conflicts of interest policy is set out below – should you require further information, please contact our Compliance Officer at our Registered Office.

**3.25.2** A potential conflict of interest may arise where:

- (a) we act for more than one person as our client; or
- (b) we (or a person connected with us) has an interest, relationship or arrangement that is material in the context of the Services.

**3.25.3** Our conflicts of interest policy helps us to maintain and operate effective organisational and administrative arrangements to take all reasonable steps to prevent conflicts of interest giving rise to a material risk of damage to your interests or the interests of another person which is our client. In respect of the business that we conduct with you, we take the following measures to manage, mitigate and avoid potential or actual conflicts:

- (a) our Employees are required to act in the best interests of each person which is our client and not to have regard to the interests of one client over the interests of any other;
- (b) our Employees are required to comply with policies which deal with conflicts of interest and disregard any interest other than that of the client when making recommendations to the client or carrying out transactions on the behalf of the client;
- (c) where we believe that a conflict of interest has arisen, or may arise, we will advise you accordingly and, if appropriate, we will decline to act for the other person or seek the consent of all interested persons before we continue to act; and
- (d) we take appropriate measures to prevent or control the exchange of information.

**3.25.4** Where the measures outlined in this Clause are insufficient, in our opinion, for the avoidance, mitigation and management of potential and actual conflicts of interest, we will confirm this to you and we may decline to act for you or terminate the Contract.

**3.25.5** You acknowledge and agree that:

- (a) we have the right to provide services to other persons in our absolute discretion and without prior reference to you or your prior approval;
- (b) in making any recommendation or in carrying out any transaction for you, we are not required to disclose the other party to the transaction, including where that other party is us, a company connected with us, or another person which is our client;
- (c) in any case, where we provide services to another person whose interests may conflict with your interests, we have complete discretion to determine whether we may continue to provide services in both, or in one or more, capacities with the consent of the relevant persons or whether we should cease to act in any one or more such capacities including by immediate termination of the Contract under Clause 3.22.3(f); and
- (d) in the event that we terminate the Contract under Clause 3.22.3(f), neither us nor you is liable for any Liability arising from any such termination including any Liabilities you incur arising from any loss of opportunity in relation to a particular transaction.

### 3.26 Confidentiality

**3.26.1** Subject to Clause 3.26.2, we will use our best endeavours to keep your Confidential Information confidential.

**3.26.2** We may disclose your Confidential Information:

- (a) to our Employees where reasonably necessary to enable the performance of the Services and subject to such Employees being placed under appropriate confidentiality obligations;
- (b) if we are required or we consider it is necessary or appropriate (in our absolute discretion) to disclose Confidential Information under Applicable Laws and Rules;
- (c) if you authorise us to disclose any Confidential Information;
- (d) if we consider it is necessary or appropriate (in our absolute discretion) to disclose the Confidential Information:
  - (i) where a failure to make such disclosure would (in our sole opinion) be prejudicial to your best interests;
  - (ii) to enable us to defend any claim brought against us by any person in connection with the provision of the Services;
  - (iii) to our professional advisers, our insurer, our insurance broker or any other member of the ATL Group;
  - (iv) to any recipient set out in our Privacy Notice, subject to us using reasonable endeavours to place such recipient, under appropriate confidentiality obligations;
  - (v) to your other advisers (including any other person that we reasonably believe is authorised or engaged by you) unless you have given us express written instructions not to do so; or
  - (vi) to any third party that we arrange to provide services to you (for example opening an account with a bank or financial institution that will provide banking services to you) to enable that party to provide such services unless you have given us express written instructions not to do so.

**3.26.3** Our obligation to maintain the confidentiality of Confidential Information under Clause 3.26.1 will cease where the Confidential Information concerned is:

- (a) already in the public domain or becomes publicly available other than by reason of any disclosure by us or any of our Employees in breach of Clause 3.26.1; or
- (b) lawfully received by us or our Employees on a non-confidential basis from a third party, provided we did not know (after making reasonable enquiries) that the third party was under an obligation of confidentiality.

**3.26.4** You agree (on your own behalf and as agent for any of your Related Parties or your Employees) that this Clause 3.26 will apply from the date we commence providing the Services to you (the "Commencement Date") and any earlier confidentiality or non-disclosure agreement that we have entered into with you or any of your Related Parties or your Employees prior to the Commencement Date ends and is of no effect from the Commencement Date.

**3.26.5** Nothing in the Contract imposes any duty on us, our Related Parties or our Employees to disclose to you any information which any of us, our Related Parties or our Employees may have or be deemed to have about any matter affecting you which any of us, our Related Parties or our Employees may have acquired in the course of acting for or providing services to any other person or in any way other than in connection with the provision of the Services.

### 3.27 Data Protection

**3.27.1** We may act as data controller, data processor or both depending on the nature of the Services. Unless we notify you otherwise, we act as data controller when providing the Services.

**3.27.2** When providing any Service, we will process your personal data in accordance with our Privacy Notice which is available on the Website.

**3.27.3** Where we pass information to a third party pursuant to Clause 3.26.2(d)(vi), any personal data contained in that information will be processed in accordance with that third party's privacy notice, data processing terms or other relevant data protection terms.

**3.27.4** You confirm that:

- (a) you are satisfied that there is a lawful basis under Applicable Laws and Rules on data protection for your disclosure of any personal data to us; and
- (b) where you disclose the personal data of another person to us, you will use reasonable endeavours to draw our Privacy Notice to the attention of that other person.

### 3.28 Complaints

**3.28.1** We treat all complaints extremely seriously. If you have a complaint in connection with our provision of Services to you, in the first instance please speak to the ATL representative with whom you normally deal. If this fails to lead to a satisfactory resolution of your complaint, please contact our Compliance Officer at our Registered Office. Your complaint will always be handled in accordance with our internal complaints procedure, a copy of which is available on request.

**3.28.2** If you are not satisfied with our response to your complaint once a final determination has been made by us, you may be able to refer your complaint to the Channel Islands Financial Ombudsman (CIFO). The contact details for the CIFO are:

- Channel Islands Financial Ombudsman, PO Box 114, Jersey JE4 9QG  
www.ci-fo.org +441534748610  
enquiries@ci-fo.org

If you want to refer your complaint to the CIFO, you must do this within 6 months of the date of our notification to you that we consider the complaint to be closed, provided the general time limit has not expired. The general time limit is the period ending on the later of:

- (a) 6 years after the date on which the act complained of occurred; or
- (b) 2 years after you could reasonably have been expected to have become aware that you had a reason to complain about the relevant act that the complaint relates to.

### 3.29 Regulation

**3.29.1** ATL is regulated in the conduct of trust company business by the JFSC under the Financial Services (Jersey) Law 1998 and complies with the JFSC's Code of Practice and Guidance Notes. For confirmation of our regulatory status please refer to the JFSC's website at Trust Company Business – Jersey Financial Services Commission (jerseyfsc.org)

### 3.30 Notices

**3.30.1** Any notice given under the Contract must be in writing, signed by an appropriate authorised signatory and be in English or have appended to it an English translation, certified as a correct translation.

**3.30.2** Where you comprise more than one person, any notice given by us to you will be valid and effective in relation to each of you if served on any one of you.

**3.30.3** Any notice shall either be delivered personally, by post (by prepaid first class delivery post if sent from the UK or by airmail if sent from outside the UK) or by email:

- (a) by us to your last known address or email address provided by you to us, in each case as shown in our records or, if you have not provided us with an address or email address, to any other address or email address that we consider appropriate; and
- (b) by you to our Registered Office, marked for the attention of the Compliance Officer or general email address as shown on our Website from time to time or, if appropriate, to the email address of your usual contact at ATL.

**3.30.4** A notice given under the Contract is deemed to have been received:

- (a) if personally delivered: at the time of delivery;
- (b) if posted: at the expiration of 48 hours (or in the case of airmail 7 days) after the envelope containing the notice was delivered into the custody of the postal authorities; and
- (c) if sent by email, 24 hours after the email was sent,
- (d) provided that, in all cases, the calculation of timing shall exclude any day that is not a Business Day.

**3.30.5** In proving service it shall be sufficient for a party to prove that personal delivery was made, or that the envelope containing the notice was properly addressed and delivered into the custody of the postal authorities as a prepaid first class or airmail letter (as appropriate) or that the email was transmitted to the specified email address, as the case may be.

### 3.31 Variation

**3.31.1** We may vary these Terms at any time including during the course of the provision of the Services. Any variation of these Terms will be published on the Website and you agree that such publication constitutes sufficient notice to you of the variation of these Terms and that you are duly bound by these Terms in the form published from time to time on the Website.

**3.31.2** You can request a hard copy of these Terms to be supplied with any Contract but, notwithstanding any failure to supply a hard copy, you agree that publication of these Terms on the Website shall be sufficient notice to you of these Terms and that you are duly bound by these Terms in the form published from time to time on the Website.

### 3.32 Restrictive Covenants

**3.32.1** You shall not, during the course of the provision of the Services or for a period of 1 year following the date of termination of the Contract, solicit, entice away or employ (or endeavour to solicit, entice away or employ) any of our Employees or any Employee of our Related Parties.

### 3.33 Our Contracting Capacity

**3.33.1** In performing any Service for you we may act either as principal or as agent as between you and any other person which is our client or a person connected or not connected with us and we may employ agents on such terms as we think fit.

### 3.34 Assignment and Transfer

**3.34.1** We may assign or transfer, in whole or in part, our rights, obligations or claims under the Contract to any person, whether or not a member of the ATL Group, without your prior written consent. Before effecting any such assignment or transfer, you agree that we may disclose Confidential Information and personal data about you to any prospective assignee or transferee provided that we use reasonable endeavours to procure that such prospective assignee or transferee is placed under non-disclosure obligations equivalent to those placed on us under the Contract.

**3.34.2** You cannot assign or transfer any of your rights, obligations or claims under the Contract without our prior written consent.

### 3.35 Waiver

**3.35.1** No failure or delay by us to exercise any right or remedy under the Contract or under Applicable Laws and Rules shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

### 3.36 Severance

**3.36.1** If at any time any provision of the Contract is or becomes invalid, illegal or unenforceable in any respect, then that provision is deemed amended to the minimum extent necessary to make it valid, legal and enforceable. If such amendment is not possible, the relevant provision is deemed deleted from the Contract. The validity, legality and enforceability of the remaining provisions of the Contract is not affected or impaired in any way by any such amendment to, or deletion of, a provision of the Contract.

### 3.37 Entire Agreement

**3.37.1** The Contract constitutes the entire agreement and understanding between you and us as to its subject matter and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between you, us and your Related Parties and your Employees relating to its subject matter, whether written or oral, express or implied. Nothing in the Contract shall exclude any Liability for fraud or fraudulent misrepresentation.

### 3.38 No Partnership

**3.38.1** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties to it.

### 3.39 Counterparts

**3.39.1** The Contract may be executed in any number of counterparts, each of which will constitute a duplicate original, and which, taken together, constitute one agreement.

### 3.40 Third party rights

**3.40.1** Subject to Clause 3.40.2, the only parties that can rely on and enforce the Contract are you and us.

#### 3.40.2

- (a)** At any time, any of our Related Parties or our Employees can enforce any indemnity in their favour given by you under the Contract directly against you.
- (b)** At any time, we and any of our Related Parties or our Employees can enforce any obligation or any indemnity in our or their favour given by the Applicant under the Contract (including in Clause 4.3) directly against the Applicant.

**3.40.3** For the avoidance of doubt and unless otherwise agreed with you, the Contract does not impose any obligations on any of our Related Parties or our Employees and the contractual relationship established by the Contract is between you and us only.

### 3.41 Governing Law and Jurisdiction

**3.41.1** The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract shall be governed by and construed in accordance with Jersey law.

**3.41.2** The courts of the Island of Jersey shall have non-exclusive jurisdiction in all matters (whether contractual or otherwise) that may arise between you and us in respect of the construction, validity or performance of the Contract or otherwise arising in connection with the Contract, including as to the rights and liabilities of you or us arising in connection with the Contract and you irrevocably submit to the jurisdiction of the courts of the Island of Jersey in connection with such matters.

**3.41.3** Your submission to the courts of the Island of Jersey shall not (and shall not be construed so as to) limit our right to take proceedings against you in any other court of competent jurisdiction nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdiction, whether concurrently or not.

### 3.42

Upon termination of the Contract for any reason, you must immediately provide the name and address of your new service provider which is required to maintain you (or where we provide the Trustee Service, the Trust) in good standing under the laws of your jurisdiction and must provide an address to which, subject to Clause 3.45, we will arrange delivery of all books, records and other documents belonging to you (or where we provide the Trustee Service, the Trust) which are in our possession or under our control. If the relevant information in relation to any new service provider is not provided to us by the date of termination of the Services, we have the right to withdraw the Services without appointment of any replacement service provider and to arrange for our resignation or the resignation of any of our Employees without the appointment of successors (unless Applicable Laws and Rules prevent any such unilateral withdrawal) and we further have the right to transfer any shares or interests in any person held by us (acting as nominee) into your name, any other beneficial owner nominated by you or any other person we consider to be appropriate (acting reasonably). We are not liable for any Liability incurred by you or any other person due to us taking any action under this Clause 3.41.

### 3.43

We will charge a termination fee, together with all disbursements and other costs incurred on a time spent basis in connection with the transfer of your administration (or where we provide the Trustee Service, the administration of the Trust) following any termination of the Contract, whether arising before or after the date of termination, in accordance with the time spent rates set out in the Contract or applicable Fee Schedule.

### 3.44 Following the termination of the Contract:

**3.44.1** We are under no obligation to forward to you or any other person any mail, document or any other item received by us relating to you (or where we provide the Trustee Service, the Trust) and we are not liable for any Liability incurred by you or any other person caused by any delay or failure to do so;

**3.44.2** you authorise us to notify any bank, Competent Authority or other person that your registered office or contact address (or where we provide the Trustee Service, that of the Trust) is no longer located at our offices; and

**3.44.3** Clauses 3.2 to 3.5, 3.22.4, 3.23, 3.24, 3.30, 3.34 to 3.46 inclusive and 4.6.6 shall remain in full force and effect, together with any other provision of the Contract that expressly or by implication is intended to continue in force after the termination of the Contract.

### 3.45 Transfer of Books and Records on Termination and Storage of Files and Papers

**3.45.1** Upon termination of the Contract for whatever reason, we are entitled to retain all books, records and other papers and documents belonging to you (or where we provide the Trustee Service, the trustee of a Trust) until all fees, taxes and other Liabilities due to or incurred by us under the Contract up to and following the date of termination have been paid in full.

**3.45.2** Subject to payment in full of all such fees, taxes and other Liabilities due to or incurred by us, we shall in all cases where a successor service provider has been appointed liaise with that service provider



to supply originals (or, if so requested, copies) of all documents and agreements entered into by you (or where we provide the Trustee Service, the trustee of a Trust in respect of the Trust) which we held during the period of the provision of the Services. In such cases, we have the right to retain copies of any such original documents and agreements which are requested to be delivered to any successor service provider and we have the right to require payment of reasonable copying charges before handing over any original documents or agreements or supplying any copies of original documents and agreements.

**3.45.3** Where, during the provision of the Services, we have created any internal memoranda, e-mails, attendance notes or any other form of document relating to the provision of Services which is not intended by us to be supplied to or seen by you and/or (or where we provide the Trustee Service, the trustee of the Trust) or any of your Employees ("internal documents"), then such internal documents do not belong to you (or where we provide the Trustee Service, the trustee of the Trust) and we are not obliged to hand over originals or make copies available of any such documents to you (or where we provide the Trustee Service, the trustee of the Trust) unless required under Applicable Laws and Rules or we are ordered to do so by a court which has jurisdiction in relation to us. We retain all copyright and other intellectual property rights in everything developed or created by us before or during the provision of the Services including any internal documents, systems and software.

**3.45.4** Where we retain originals or copies of any documents belonging to you (or where we provide the Trustee Service, the trustee of the Trust) following the termination of the Contract, we have the right (but are not under an obligation) to retain such copies for a period of ten years from the date of termination of the Contract. During such period, we have the right (but are not under an obligation) to make electronic copies of all such retained documents and to destroy hard copies of all such retained documents.

**3.45.5** After the tenth anniversary of the termination of the Contract for any reason, the continued retention (whether in electronic form or otherwise) of all documents in relation to you (or where we provide the Trustee Service, the trustee of the Trust or the Trust), whether internal or otherwise, held by us in connection with the provision of Services, is on the understanding that we have the right to destroy all such documents (whether originals, photocopies or electronic copies) at such times as we in our sole discretion consider appropriate. You (or where we provide the Trustee Service, the trustee of the Trust) accept that you have no right to call upon us for the provision of any documents (whether originals or copies) more than ten years after the date of termination of the Contract for any reason.

**3.45.6** Where you (or where we provide the Trustee Service, the trustee of the Trust) request the production of documents after the termination of the Contract, we have the right to charge for all costs incurred on a time spent basis in retrieving and supplying any such documents and to charge all copying costs as disbursements in accordance with the time spent rates set out in the applicable Fee Schedule.

### 3.46 Safe Custody

Where we are requested or required to keep any documents or objects or items of intrinsic value of any nature on your behalf (or where we provide the Trustee Service, on behalf of the trustee of the Trust or the Trust), we shall do so in such storage facility as we consider appropriate and, whilst such storage facilities may be designed to limit the possibility of unauthorised access or damage by fire or water, we accept no liability for any destruction, loss or damage to any items which we are requested to store on your behalf (or where we provide the Trustee Service, on behalf of the trustee of the Trust or the Trust).

## 4 SERVICE SPECIFIC TERMS

### 4.1 Introduction

**4.1.1** We offer the following Services, each of which is described in more detail below:

- Accounting Service
- Formation Service
- Director Service
- Limited Service
- Trustee Service

**4.1.2** You will be either an Accounting Service Client, a Formation Service Client, a Director Service Client, a Limited Service Client or a Trustee Service Client, or a combination of these as appropriate, under the Contract.

### 4.2 Accounting Service

**4.2.1** Our Accounting Service includes:

- (a) preparation of annual unaudited financial statements in accordance with generally accepted accounting principles ("GAAP"), notified by you to us;
- (b) regular bookkeeping and reconciliation of transactions;
- (c) any ancillary services that we consider may be reasonably required in connection with the accounting services described above.

**4.2.2** Where we agree to provide you with our Accounting Service pursuant to the Contract, you acknowledge and agree to the following terms:

- (a) you will promptly provide us with all information that we reasonably request to enable us to provide the Accounting Service, including records of decisions made by your directors and members (if applicable), documentation between you and third parties and financial information such as statements, invoices, valuations and tax returns;
- (b) we may rely on any information you provide to us to provide the Accounting Service and we are under no obligation to, and we accept no responsibility or liability to you for, checking if any information provided by you to us is accurate and complete;
- (c) you will notify us of any relevant reporting deadline and any change to such reporting deadline, in each case at least 3 months before the date of the relevant reporting deadline;
- (d) you may only rely on financial statements prepared by us that are expressed to be the final version and you may not rely on any draft or interim version of any financial statements prepared by us; and
- (e) you can provide copies of any financial records that we prepare for you as part of our Accounting Service to your directors, shareholders and auditors (if applicable) but not to any other person (including making such records publicly available) without our prior written consent.

**4.2.3** The fees and charges payable by you for our Accounting Service are set out in the Contract or Fee Schedule as applicable.

**4.2.4** We shall not be liable for any Liability incurred by you or any other person caused by:

- (a) the way a transaction was recorded in any financial records prepared by us, provided we acted in line with GAAP notified by you to us under Clause 4.2.1(a) and without gross negligence, fraud or wilful default;
- (b) any failure to meet a reporting deadline, where that failure was because you did not provide us with relevant information requested by us under Clause 4.2.2(a) or you did not provide such information in a timely manner;
- (c) any failure of the financial records that we prepare for you as part of our Accounting Service to meet the accounting or financial reporting requirements under Applicable Laws and Rules, provided we acted in accordance with any information provided by you to us. You are solely responsible for fulfilling your obligations in relation to these matters and for the content of any financial statements or other records.

#### 4.3 Formation Service

**4.3.1** In this Clause 4.3, references to "you" or "your" refer to the Applicant.

**4.3.2** Our Formation Service includes:

- (a) the incorporation, registration, formation or establishment of a new company, limited partnership, limited liability partnership, separate limited partnership, incorporated limited partnership, foundation or Trust (an "Entity"); and
- (b) the preparation and filing of the documents required to incorporate, register, form or establish an Entity with the Jersey Registrar of Companies or Partnerships or, where the Entity is to be incorporated, registered, formed or established in a jurisdiction outside of Jersey, the procurement of the foregoing by an appropriately licenced and regulated formation agent in the applicable jurisdiction.

**4.3.3** Where we agree to provide you with our Formation Service pursuant to the Contract, you acknowledge and agree to the following terms:

- (a) before the Entity is incorporated, registered, formed or established (as applicable), you are our client; and
- (b) you will cease to be our client on the date of incorporation, registration, formation or establishment (as applicable) of the Entity (the "Formation Date") and the Entity will be our client from the Formation Date.

**4.3.4** You undertake to us for the duration of the Contract that:

- (a) you will promptly provide to us, on request, any original document, copies of documents or other information (together with certified translations if not in the English language) required to enable us to provide the Formation Service, including any information on you or your Related Parties or your Employees which may be required to enable us to:
  - (i) complete any anti-money laundering and terrorist financing checks at any time under our policies and procedures (including information on source of wealth and source of funds);

- (ii) verify the capacity of a person to give Proper Instructions on your behalf or on behalf of the Entity; or
  - (iii) confirm an individual's status for tax purposes in his country of residence and/or domicile or nationality (including all Tax Information);

- (b) any information provided to us will be true, accurate, complete and not misleading and you will inform us, without delay, of any material changes or additions to the information previously provided to us (including to any email address which we should use to communicate with you under Clause 3.6);
- (c) you will use your best endeavours to comply with Applicable Laws and Rules;
- (d) you will not do anything or allow anything to be done which would impose or be likely to impose any civil or criminal liability on us, our Related Parties or any of our Employees whom we may nominate to hold any office or employment with the Entity, including where we act as trustee of a Trust;
- (e) where we provide the Entity with directors or officers or act as trustee of a Trust, you will make sure that no corporate action is taken nor any documents signed by the Entity or on its behalf without the prior knowledge and consent of that director or officer or trustee;
- (f) all assets which will be introduced by you or contributed by you to the Entity will be lawfully introduced or contributed and will not be derived from or in any way connected with any illegal activity in any part of the world;
- (g) neither you, the Entity nor (to the best of your knowledge) any of your Related Parties or your Employees will be involved in, directly or indirectly, any activity which:
  - (i) is illegal in any part of the world; or
  - (ii) infringes or attempts to avoid or evade any sanctions in any part of the world; and
- (h) you will promptly notify us if you, or (to the best of your knowledge) any of your Related Parties or your Employees, agents or service providers are investigated, prosecuted or convicted of any offence under any anti-bribery and corruption or tax evasion laws in any part of the world.

**4.3.5** The fees and charges payable by you and/or the Entity for our Formation Service are set out in the Contract or Fee Schedule as applicable.

**4.3.6** Whether or not any Entity has assets from which any fees, taxes or other Liabilities due or incurred in connection with the Services may be deducted, in accepting these Terms you guarantee to us the prompt:

- (a) payment of all fees, taxes or other Liabilities due or incurred in connection with the Services; and
- (b) performance by the Entity of its obligations under the Contract.

**4.3.7** In respect of the guarantee in Clause 4.3.6, you agree that:

- (a) the guarantee will continue in full force and effect notwithstanding the incorporation, registration, formation or establishment (as applicable) of the Entity or any amendment or variation of the underlying obligations between you, us and/or the Entity;
- (b) if any obligation guaranteed by you under Clause 4.3.6 is or becomes invalid, illegal or unenforceable in any respect, you shall indemnify us immediately on demand and on a full indemnity basis against all Liabilities we may incur caused by the Entity failing to perform any of its obligations owed to us under the Contract;



(c) you expressly, irrevocably and unconditionally abandon and waive any right which you may have at any time under the existing or future laws of Jersey:

- (i) whether by virtue of the droit de discussion or otherwise to require that we first seek recourse against the assets of any other person before pursuing you under this guarantee; and
- (ii) whether by virtue of the droit de division or otherwise to require that any of your liability under this guarantee be divided or apportioned with any other person or reduced in any manner whatsoever.

**4.3.8** Without prejudice to any separate indemnities set out in the Contract and subject to Clause 4.3.9, to the greatest extent permitted by Applicable Laws and Rules, you shall indemnify immediately on demand and on a full indemnity basis and hold harmless us, our Related Parties and our Employees against any Liability arising from:

- (a) entering into, performing, suspending or terminating any Service;
- (b) a breach of the Contract by you or the Entity;
- (c) any actions, suits, proceedings, accounts, claims or demands brought or made against us, our Related Parties or our Employees; and
- (d) the insolvency of the Entity.

**4.3.9** The indemnity in Clause 4.3.8 does not apply to any Liabilities incurred by us as a result of our fraud, wilful default or gross negligence or that of our Related Parties or our Employees.

**4.3.10** You agree (on your own behalf and as agent for any of your Related Parties or your Employees) that Clause 3.26 of these Terms will apply from the Formation Date and any earlier confidentiality or non-disclosure agreement that we have entered into with you or any of your Related Parties or your Employees prior to the Formation Date ends and is of no effect from the Formation Date.

#### 4.4 Director Service

**4.4.1** Under our Director Service, we will, amongst other things, provide the services of a company (being a member of the ATL Group) or an individual (being one of our Employees) to act as a director (a "Director").

**4.4.2** Where we agree to provide you with our Director Service pursuant to the Contract, you acknowledge and agree to the following terms:

- (a) the relationship between you and the Director is not one of partnership or employment but is that of an office holder only;
- (b) you will promptly provide to the Director, on request, any information required or appropriate to enable the Director to provide the Director Service, including any documents in connection with any insurance policy purchased pursuant to Clause 4.4.2(j);
- (c) the Director is not a legal, tax, accounting or economic substance adviser and any advice or guidance given by the Director is given only in the Director's capacity as a director and not in any other capacity;
- (d) where the Director considers it necessary or appropriate as part of the provision of the Director Service to seek professional advice or services from any third party advisers or service providers, whether in Jersey or elsewhere, then the Director has the right (exercisable in the Director's absolute discretion) to obtain such advice or services from third parties without requiring your prior consent and you will be responsible for paying the fees, taxes and disbursements of any such third party adviser or service provider;

(e) the Director is not required to devote all of the Director's time and attention to your affairs, and the Director will devote the time and attention necessary (in the Director's sole opinion) to discharge the Director's responsibilities and legal duties, including reviewing board papers, attending board meetings and signing documents on your behalf;

(f) if a Director is an individual, he may appoint another of our Employees as his alternate where appropriate (in the Director's sole opinion);

(g) the Director will perform the Director Service in accordance with our policies and procedures (including our policies and procedures on confidentiality and conflicts of interest) and is not required to comply with any of your policies and procedures;

(h) we may change the identity of a Director at any time (including where an individual that is a Director ceases to be our Employee) and, if appropriate, we will use reasonable endeavours to procure that another company (being a member of the ATL Group) or individual (being one of our Employees) replaces the previous Director to provide the Director Service;

(i) unless permitted by Applicable Laws and Rules, you must bring any claim in connection with the provision of the Director Service against us and you have no claim against the Director; and

(j) if reasonably requested by us, you will purchase suitable (determined in our absolute discretion) professional and/or directors' and officers' insurance cover and include the Director under the terms of such policy.

**4.4.3** You and each of your directors that are not Directors provided by us undertake to us for the duration of the Contract that:

- (a) you will act in accordance with Applicable Laws and Rules and your Constitutional Documents, including giving the Director notice of any board meetings;
- (b) you will provide copies of any document to be considered and approved by the directors to the Director sufficiently in advance to enable the Director to consider the contents of any such document;
- (c) if a Director has signed a document on your behalf, you will provide the Director with a fully signed and dated copy of such document; and
- (d) you will maintain adequate insurance cover.

**4.4.4** The fees and charges payable by you for our Director Service are set out in the Contract or Fee Schedule as applicable.

**4.4.5** Without prejudice to any separate indemnities set out in the Contract and subject to Clause 4.4.6, to the greatest extent permitted by Applicable Laws and Rules, you shall indemnify immediately on demand and on a full indemnity basis and hold harmless the Director against any Liability arising from:

- (a) entering into, performing, suspending or terminating any Service;
- (b) your breach of the Contract; and
- (c) any actions, suits, proceedings, accounts, claims or demands brought or made against us, our Related Parties or our Employees.

**4.4.6** The indemnity in Clause 4.4.5 does not apply to any Liabilities incurred by us as a result of the fraud, wilful default or gross negligence of the Director.

#### 4.5 Limited Service

**4.5.1** Under our Limited Service, we will provide you with a registered office, the services of a company (being a member of the ATL Group) to act as company secretary and any other associated ancillary services.

**4.5.2** Where we agree to provide you with our Limited Service pursuant to the Contract, you acknowledge and agree that you will promptly provide to us, on request, any information required or appropriate to enable us to provide the Limited Service.

**4.5.3** You and each of your directors (that are not Directors provided by us pursuant to any Director Service) undertake to us for the duration of the Contract that:

(a) you will promptly notify us of, and provide to us any relevant documents or other information required in connection with, the following matters:

- (i) any meetings of the board of directors or written resolutions of the directors;
- (ii) any meetings of the members or written resolutions of the members;
- (iii) the finalisation of the latest annual financial statements;
- (iv) the submission of any tax return in any jurisdiction relating to you;
- (v) any actions, suits, proceedings, accounts, claims, demands or investigations threatened, brought or made against you or any of your directors;
- (vi) any insolvency procedure in any part of the world that you or any of your directors are subject to;
- (vii) any insolvency procedure in any part of the world that a company which any of your directors owns or is otherwise connected with is subject to;
- (viii) any censure, criticism, or enquiry in connection with the conduct of any of your directors or any disqualification or equivalent step in respect of any of your directors;
- (ix) any matter which must be notified to us under the Contract or which might reasonably be expected to affect your registration or good standing in any part of the world;

(b) you will give us 5 Business Days' prior notice of any change to the information previously provided to us in respect of any of the following matters:

- (i) your corporate activities or your corporate purpose;
- (ii) the jurisdiction in which you undertake activities;
- (iii) the Applicable Laws and Rules in relation to your activities, including any change to governmental or regulatory sanctions;
- (iv) your directors;
- (v) any authorised signatory or attorney under a power of attorney;
- (vi) your shareholders, members or beneficial owners or controllers;
- (vii) your status as, connection to or association with any politically exposed person;
- (viii) your share capital, including the transfer of existing shares or the issue of new shares;

(c) you will act in accordance with Applicable Laws and Rules and your Constitutional Documents;

(d) you will maintain adequate insurance cover; and

(e) you will not act as nominee or in a fiduciary capacity for any other person in connection with any Limited Service.

**4.5.4** The fees and charges payable by you for our Limited Service are set out in the Contract or Fee Schedule as applicable.

#### 4.6 Trustee Service

**4.6.1** Under our Trustee Service, we will, amongst other things, provide the services of a company or companies (being a member of the ATL Group) to act as a trustee or trustees of a trust (a "Trust") in accordance with the terms of the relevant trust instrument or deed. Where there is any inconsistency between these Terms and the relevant trust instrument or deed, the terms of the relevant trust instrument or deed shall prevail.

**4.6.2** Where we agree to provide you with our Trustee Service pursuant to the Contract, you agree to the terms of this Clause 4.6.

**4.6.3** Where we consider it necessary or appropriate as part of the provision of the Trustee Service to seek professional advice or services from any third party advisers or service providers, whether in Jersey or elsewhere, then we have the right (exercisable in our absolute discretion) to obtain such advice or services from third parties without requiring prior consent and the fees, taxes and disbursements of any such third party adviser or service provider will be paid out of the assets of the Trust, unless agreed otherwise.

**4.6.4** The fees and charges payable for our Trustee Service are set out in the Contract or Fee Schedule as applicable.

**4.6.5** We have the right to pay our fees and any Liabilities we incur in connection with the provision of the Trustee Services out of the assets of the Trust.

**4.6.6** When providing the Trustee Services, we shall not be liable for any Liability, including any loss of profit to the income or capital of a Trust, caused by:

- (a) any act or omission on our part;
- (b) any failure, reduction, depreciation or loss of investments made or not made;
- (c) any failure to increase or maintain the value of the income or capital of the Trust, unless such Liability is the direct result of our fraud, wilful default or gross negligence.

## 5 OUR WEBSITE/ONLINE CLIENT PORTAL

### 5.1 Introduction

**5.1.1** From time to time we may provide you with access to our Online Client Portal.

**5.1.2** This section 5 applies to the entire contents of the Website and Online Client Portal. Please read this section carefully before using the Website. By accessing the Website you agree to comply with the provisions of this section 5 - if you do not accept these Terms, do not use the Website.

**5.1.3** Your attention is drawn to the provisions of Clause 3.7 dealing with the use of Electronic Communications.

### 5.2 Disclaimer

**5.2.1** The material contained on the Website is provided for general information purposes only and does not constitute legal or other professional advice. No content on the Website constitutes an offer or solicitation by us or any of our Related Parties to buy, sell or otherwise deal in any particular investment and such content does not constitute an offer, solicitation or recommendation to buy, sell or otherwise trade all or any investments which may be mentioned in such content.

**5.2.2** We may make changes to the material on the Website, or to the services and costs described in it, at any time without notice. The material on the Website may be out of date, and we make no commitment to update such material.

**5.2.3** Neither we nor any of our Related Parties nor our agents nor our suppliers make any representation or warranty (including relating to reliability, currency, completeness, timeliness, accuracy or use of reasonable care and skill) in respect of the information on the Website and we shall not be liable for any Liability incurred by you as a result of any investment decisions made by you as a result of content displayed on the Website.

**5.2.4** We have provided the information on the Website "as is" and such information has been derived from sources that we believe to be accurate and reliable. Other than in respect of information on us and the ATL Group, we have not independently verified any information on the Website and we accept no responsibility or liability to you for the accuracy or timeliness of information received from third parties that we provide on the Website.

**5.2.5** Where we have provided links to third-party websites on the Website, these links are provided solely for your convenience. If you use these links, you will leave the Website. We have not reviewed all of these third-party websites and do not control and are not responsible for these websites or their content or availability. We do not endorse or make any representations about any third party websites, or any material found on any third party websites, or any results that may be obtained from using any third party websites. If you decide to access any of the third-party websites linked to the Website, you do so entirely at your own risk.

**5.2.6** Any statements on the Website as to the levels and bases of taxation and all other references to legislation and regulatory controls are, to the best of our knowledge and belief, in accordance with current Applicable Laws and Rules and practice. Levels and bases of taxation can change and we suggest

you seek your own legal and tax advice on your personal position and to make sure that you are not contravening the Applicable Laws and Rules of any country.

**5.2.7** Any views expressed on the Website reflect the current views of ATL and the ATL Group. The views expressed on the Website may change without notice to you and we accept no responsibility or liability to you in connection with any change in the views expressed on the Website.

**5.2.8** There are legal requirements in various countries which may restrict the information which we can lawfully provide to you. Accordingly, the information contained in some sections of the Website may be provided for residents of certain countries only. Persons who receive the content or who have access to it should inform themselves about and observe any restrictions imposed in the jurisdiction in which they access the Website.

### 5.3 Security

**5.3.1** Upon registration to use the secure sections of the Online Client Portal you will be provided with a username and initial temporary password which we will ask you to change upon first use.

**5.3.2** In accessing the Online Client Portal you agree that:

- (a) you will not disclose your login details or allow them to be disclosed to any other person and you will take all appropriate measures to prevent such disclosure; and
- (b) immediately upon becoming suspicious that your login details have been disclosed to another person, you will:
  - (i) cease to make further use of them;
  - (ii) telephone us and notify us of the unauthorised disclosure; and
  - (iii) follow this telephone notification at once with confirmation in writing sent by post or email.

**5.3.3** If you are accessing the Online Client Portal in a public place, please make sure you are not observed while entering your login details and that you log out of your session when finished. As public Wi-Fi hotspots are not secure and can be cloned, these should not be used to access the Online Client Portal.

### 5.4 Usage and Reliability

**5.4.1** You agree that you will not use, and will not permit or suffer any other person to use, the Website for any unlawful, obscene, abusive or libellous purpose.

**5.4.2** Although we will endeavour to provide you with continuous access to our Website, we do not guarantee or represent that we can do so and we will not be liable for any Liability incurred by you as a result of disruptions to your access which are beyond our control. You acknowledge that the services provided via the Website may not be error free, that they may be interrupted and that they can be variable. Access to the Website may be suspended temporarily and without notice in the case of system failure, maintenance or repair, or for reasons beyond our control, including a Disruptive Event.

**5.4.3** We reserve the right to suspend our services without notice in order to maintain or repair the Website or related software, or if at any time we are unable for whatever reason to ensure the integrity of the service.

### 5.5 Copyright

All content on the Website is protected by applicable copyright and other intellectual property laws. Such content may be displayed and printed for your personal non-commercial use, but you agree not to reproduce, transmit or distribute such content without our prior written consent.

### 5.6 Liability

**5.6.1** ATL, the ATL Group, our Related Parties, our Employees and agents of any of them exclude all liability and responsibility for any amount or kind of loss, damage or Liability that may be incurred by you or a third party (including any loss of income, profits, goodwill, data, contracts, use of money, or loss or damages arising from or connected in any way to business interruption, and whether in tort (including negligence), contract or otherwise) in connection with the Website in any way or in connection with the use, inability to use or the results of use of the Website, Online Client Portal, any websites linked to the Website or the material on such websites, including but not limited to any Liability due to viruses that may infect your computer equipment, software, data or other property on account of your access to, use of, or browsing the Website or your downloading of any material from the Website or any websites linked to the Website.

**5.6.2** You agree that your sole and exclusive remedy if dissatisfied with the Website for any reason whatsoever is termination of our Services under the Contract, in accordance with the provisions of the Contract.

**5.6.3** If your use of material on the Website results in the need for servicing, repair or correction of equipment, software or data, you assume all costs thereof.

**5.6.4** You accept that we have no liability to you, arising from breach of confidentiality or otherwise, if through no fault of our own any other person sees any communication which is deemed to have been delivered to your email address or viewed by you via the Website. You acknowledge that any third party you may have appointed to act on your behalf in connection with the Services will, once authorised by us, be able to view your details in the Online Client Portal for administrative purposes only and will be provided with login details to enable them to do so.

**5.6.5** Nothing in this Clause shall exclude or limit any liability which cannot be excluded or limited under Applicable Laws and Rules.