

General Terms & Conditions (Client)

1. DEFINITIONS

1.1 In these general terms and conditions (except where otherwise expressly provided):

Agreement means any written or oral agreement between the Client Company and Intertrust;

Client means the person who engages or accepts the Services rendered by Intertrust and any person qualifying as its 'ultimate beneficial owner' as defined in article 1, paragraph 1, sub f of the Act on the prevention of money laundering and terrorist financing ('Wet ter voorkoming van witwassen en financieren van terrorisme');

Client Company means a company, foundation, any other form of legal entity, partnership, or unincorporated business, set up, maintained and/or managed by Intertrust or to which Intertrust provides any Service at the request or instruction of the Client and/or the Client Company;

Intertrust means Intertrust (Netherlands) B.V. and any Intertrust Person;

Intertrust Person means any (corporate) director, officer, manager, employee of or other (executive) director engaged by Intertrust;

Group Member means (i) any person's (ultimate) beneficial owner or parent company (and any subsidiary thereof), subsidiary, affiliate, group or successor company and (ii) any of their directors, board members, officers, shareholders or representatives;

Intellectual Property Rights means copyright and related rights, trade marks, trade names and domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in confidential information (including know-how) and any other intellectual property rights, in each case whether registered or unregistered, including all applications (and rights to apply) for, and renewals and extensions of, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist, now or in the future, in any part of the world;

Licensed IP means any Intellectual Property Rights of the Client or any of its Group Members that will be managed, (sub)licensed or otherwise disposed of by the Client Company;

Non-Intertrust Director means a (former) (managing) director at a Client Company other than Intertrust;

Service means any service rendered by Intertrust to the Client Company, pursuant to or in connection with any Agreement; and

Terms means these general terms and conditions, dated November 1, 2009.

1.2 References to a person shall be construed so as to include any individual, firm, company, joint venture, association, partnership (whether or not having separate legal personality) or other entity.

2. APPLICABILITY

2.1 By entering into an agreement with Intertrust, the Client agrees or is deemed to have agreed with Intertrust that these Terms will apply to the business relationship between the Client and Intertrust, including (i) all agreements pursuant to which Intertrust performs the Services, (ii) all contracts and agreements arising

therefrom and/or relating thereto, and (iii) all other proposals made by Intertrust.

2.2 Intertrust shall be entitled to amend these Terms. Any amendment to these Terms will only become effective three months after such amendment has been notified to the Client.

3. DUTIES AND RESPONSIBILITIES OF INTERTRUST

3.1 Intertrust will act with due care in performing the Services in accordance with the standard of care and skill required by Dutch law.

3.2 Intertrust will provide the Services for the benefit of a Client Company only and solely for the purposes set out in the Agreement. Third parties cannot derive any rights from the Services performed on behalf of or rendered to a Client Company.

3.3 Insofar as the Services shall include the appointment of Intertrust as managing director of a Client Company and the performance of management duties in that capacity, Intertrust shall:

- (a) perform its duties and render its services properly, diligently, faithfully and in the best interest of the Client Company with due observance of the standard of fiduciary duties and responsibilities under Dutch law;
- (b) manage the affairs of such Client Company and fulfil the duties and observe any restrictions imposed upon it by virtue of the relevant Agreement, the articles of association of the Client Company or Dutch law; and
- (c) duly observe and execute the resolutions and general guidelines that the general meeting of shareholders or the management board of the Client Company may adopt or issue from time to time.

3.4 Intertrust shall determine in what manner and by which person(s) the Services shall be performed, thereby taking into account, as much as possible, any wishes expressed by the Client and/or the Client Company.

3.5 If the Client instructs advisers (either directly or through Intertrust) on any matter relating to or in connection with the Services, Intertrust will not be liable to the Client for the services, advice or information provided by, or responsible for the fees and expenses of those advisers.

3.6 Notwithstanding the foregoing, Intertrust shall not be obliged to do or omit to do anything which it considers to be in conflict with the interest of the Client Company, any applicable law, regulation or (internal) policy rules or otherwise harm Intertrust's lawful interests, including its reputation.

4. COMPLIANCE WITH LAWS AND REGULATIONS

4.1 The Client accepts that Intertrust may take whatever steps Intertrust considers appropriate to comply with all applicable laws and regulations, including (conditions to) permits or authorisations of any governmental or regulatory authority, in providing the Services.

4.2 The Client accepts and commits to provide Intertrust with all documents and information with respect to the Client, any of its Group Members or the Client Company that Intertrust is or may be required to

collect, maintain and/or update by applicable laws and regulations, including the Supervision of Trust Offices Act ('Wet toezicht trustkantoren') and the Act on the prevention of money laundering and terrorist financing ('Wet ter voorkoming van witwassen en financieren van terrorisme'), or as a result of any (internal) policy as well as all information allowing Intertrust to determine the volume and nature of the transactions entered into by a Client Company or in relation to the Services, as the case may be. Any reasonable costs or expenses incurred by Intertrust in connection with this paragraph 4.2 shall be for the account of the Client Company.

4.3 Intertrust shall be authorised to answer any question and provide any information or documentation available to it regarding the Client, its Group Members, a Client Company, a structure or a transaction (i) to any tax or other governmental authority if there is a statutory obligation to do so, (ii) in accordance with article 9 of the Act on the prevention of money laundering and terrorist financing ('Wet ter voorkoming van witwassen en financieren van terrorisme'), or (iii) if Intertrust in its reasonable opinion believes that this is necessary or desirable for compliance with any applicable law or regulation or for defending the Client Company or Intertrust against any complaint or claim, whether on a statutory law, contract law, tax law, or criminal law basis.

5. SERVICES INTERTRUST WILL NOT BE PROVIDING

The Services will in any case not include providing, obtaining or reviewing on the Client's or a Client Company's behalf any legal, tax, commercial, financial, auditing, brokerage, actuarial, banking, investment management, information technology, technical or insurance services.

6. COMPLAINTS ABOUT THE SERVICES

Intertrust is committed to providing the Client Company with the highest quality of service. If the Client has any concern or complaints about any of the Services, Intertrust would like to discuss and try to resolve them with the Client as soon as possible. A copy of Intertrust's complaint policy and procedures can be downloaded from its website.

7. ENDING THE SERVICES

7.1 The Agreement can be terminated by a Client Company or by Intertrust at the end of any calendar month by giving three months written prior notice.

7.2 Insofar as Intertrust is appointed as managing director of a Client Company, the general meeting of shareholders of the Client Company is entitled to dismiss Intertrust as managing director of the Client Company in accordance with the relevant provisions of the articles of association of the Client Company and the Dutch Civil Code. In an event of dismissal or resignation of Intertrust as managing director of a Client Company, the Client shall procure that Intertrust shall be granted full discharge for having acted as managing director of the Client Company.

7.3 Intertrust can also stop providing any Service with immediate effect, both in respect of any specific Service or generally, if an event arises that, were the Agreement to continue, might unreasonably burden or affect any of the parties, such as reputational damage, not receiving clear and timely instructions from a Client Company, non-compliance with any applicable laws or regulations by the Client or a Client Company, unreasonably refusing to satisfy Intertrust's invoice or insolvency or a continued

impairment of the moral, legal or financial integrity of the Client or a Client Company, to be determined at the sole discretion of Intertrust.

7.4 The resignation on Intertrust's own initiative and Intertrust's subsequent reasonable actions can never give rise to a claim on the part of the Client or any of its Group Members to damages in that respect. To the extent applicable and appropriate, Intertrust shall be authorised to inform the trade register of the Chamber of Commerce, the Dutch Central Bank or any (tax) authorities of its resignation and, if necessary to Intertrust's discretion, the underlying motivation thereof.

7.5 If the Client Company or Intertrust decides to end any specific Service or generally terminate an Agreement, the Client will become jointly and severally liable for Intertrust's undisputed fees and expenses, and the undisputed fees and expenses of any third party retained by Intertrust on the Client's or the Client Company's behalf, up to the time that Intertrust stops providing such Service(s) to the Client Company, plus any applicable VAT on such amounts.

7.6 Subject to paragraph 12 below and prior to full settlement of all outstanding invoices, costs and/or fees by the Client and/or the Client Company, the corporate and administration documents relating to the Client Company and its affairs, which are held by Intertrust, shall be returned to the Client Company, or any other person so designated by the Client Company for this purpose.

7.7 Upon termination of the Services the Client Company will cease to have its registered address at Intertrust's address unless parties agree otherwise.

7.8 Paragraphs 7.5, 8, 12, 13.8, 13.10, 14, 15, 18, 20 and 21 of these Terms shall survive the termination or rescission for any reason of any agreement concluded between Intertrust and the Client or of the engagement of Intertrust in relation to the Services.

8. SECURITY

At the first request of Intertrust the Client shall be obliged to provide adequate security, in a form acceptable to Intertrust, for the (payment) obligations of the Client Company under the Agreement and of the Client pursuant to these Terms.

9. DUTIES, REPRESENTATIONS AND WARRANTIES OF THE CLIENT

9.1 The Client shall and shall procure that its Group Members and the Client Company will provide any information, documentation, or any other form of co-operation (including for the purposes of all tax matters), all in a reasonable timeframe, that Intertrust reasonably requires for the provision of its Services or the carrying out of its responsibilities as managing director of a Client Company or otherwise under any agreement concluded between Intertrust and/or the Client and/or the Client Company.

9.2 The Client represents and warrants ('garandeert') to Intertrust that the Client Company shall at all times fulfil its obligations under any agreement with Intertrust and that the Client Company shall at all times pay its debts to Intertrust as and when they become due.

9.3 The Client represents and warrants to Intertrust that:

- (a) any information or documentation provided by or on behalf of the Client to Intertrust shall be true, accurate, up-to-date and complete at the time provided;
- (b) each transaction that concerns the Client Company and to which Intertrust is a part or is involved with, complies with and is legitimate in the jurisdiction(s) involved in such transactions; and
- (c) the performance of the Services will not infringe on third party rights, including any intellectual property rights.

9.4 In case in addition to Intertrust one or more Non-Intertrust Directors shall act as managing directors of a Client Company, the Client represents, warrants and shall procure that each Non-Intertrust Directors is of good

standing, reputable, duly qualified to act as managing director of a Dutch entity and will not engage in any transactions on behalf of the Client Company which are illegitimate in the jurisdiction(s) involved in such transaction.

9.5 Insofar as Intertrust has not been or will not be entrusted with the bookkeeping of a Client Company, the Client represents and warrants that the administrative organisation and the internal control procedures of the person responsible therefore meet the standards as required under Dutch law and are such that unusual transactions within the meaning of the Supervision of Trust Offices Act in which the Client Company is involved will be flagged and notified to Intertrust and all the managing directors of the Client Company immediately upon discovery of their occurrence.

9.6 The Client shall notify Intertrust by registered mail in case of a transfer, sale, pledge or other disposal of the direct or indirect control over the Client or a Client Company at least five business days in advance.

9.7 If the resolutions and general guidelines are communicated through an attorney in fact, Intertrust will observe and execute the same upon receipt of written confirmation that such attorney is authorised to communicate said resolutions and general guidelines to Intertrust. This confirmation may be deemed to remain in effect until Intertrust receives specific written notice to the contrary.

10. LICENSED IP

Insofar as and to the extent that the Services include managing, (sub)licensing or otherwise disposing of any Licensed IP:

- (a) the Client represents and warrants to Intertrust that:
 - (i) the Client or any of its Group Members has title to, or has validly licensed to it, all of such Licensed IP and there are no restrictions on their use in accordance with the Services; and
 - (ii) to the Client's best knowledge, no third party is infringing such Licensed IP and none of these Licensed IP are infringing any intellectual property rights of a third party;
- (b) to the extent applicable, during the term of the Agreement, the Client or any of its Group Members shall, at its own cost and discretion, take reasonable steps to maintain the registration for the Licensed IP; Intertrust shall promptly provide all reasonable assistance required in connection with the maintenance of the registration of the Licensed IP;
- (c) each party shall immediately notify the other in writing of any of the following matters which comes to its attention (giving full particulars):
 - (i) any actual, suspected or threatened infringement of the Licensed IP;
 - (ii) any allegation or complaint made by any third party that any of the Licensed IP is invalid, that its use infringes any third party rights, or that its use may cause deception or confusion to the public; and
 - (iii) any other form of attack or claim to which any of the Licensed IP may be subject; and
- (d) Intertrust shall not make any admissions in respect of these matters other than to the Client or the relevant Group Member and shall, in each case, provide the Client and/or the relevant Group Member with all relevant information (including underlying documentation) in its possession.

11. ELECTRONIC COMMUNICATION

11.1 There is no guarantee that electronic communications between Intertrust and the Client will be secure, virus free or successfully delivered. Intertrust shall not incur any liability resulting from or in connection with use of email and/or facsimile communication as means of communications, and shall not be liable to the Client if, due to circumstances beyond Intertrust's reasonable control, such electronic communications are

intercepted, delayed, corrupted, not received or received by persons other than the intended addressees.

11.2 Intertrust shall not incur any liability in connection with the issuance or implementation of payment instructions given by email, facsimile or telephone communication, provided that Intertrust has (i) acted in accordance with the contents of any such communication, and (ii) has observed its fiduciary duty of care and has adhered to its obligations under the Agreement.

12. DOCUMENT RETENTION POLICY

The Client agrees that Intertrust may keep any documents, papers or other materials (in either physical or electronic form) in relation to any Service for archival purposes under applicable professional standards and in accordance with applicable law.

13. TAX

13.1 In this paragraph 13:

tax or taxation means any tax of whatever nature levied, withheld or assessed by any jurisdiction or subdivision thereof and includes penalties, fines and interest relating to any of the foregoing;

reputable tax counsel means independent professional tax counsel (a tax advisor, accountant or lawyer) authorised to practice in a relevant jurisdiction or in-house tax counsel, in each case of high repute and reasonably acceptable to Intertrust;

tax advice means written advice setting out the material tax consequences of a specific proposed set up of a group of companies or a company structure (each a **structure**), a transaction or a set of transactions (**transaction**), the overall or specific tax position of a Client Company and, implicitly or explicitly, confirming that the structure or transaction does not violate the tax laws and regulations of the jurisdictions in which the structure or transaction is set up or is carried out, or which jurisdictions are otherwise relevant for the tax consequences of the proposed structure or transaction; and

tax opinion means a legal opinion issued by internationally reputable tax counsel, reasonably acceptable to Intertrust, on the intended tax consequences of a proposed structure or transaction of at least 'should' level and not containing material qualifications.

13.2 Intertrust does not provide professional tax advice. Any statement made by or on behalf of Intertrust, including but not limited to such statements made in marketing materials, offer letters, client newsletter and on its website, reflects the understanding of Intertrust of the tax consequences of a structure or transaction, is provided for general information purposes only and is always subject to professional tax advice that the Client or the Client Company, as the case may be, should obtain on the basis of its specific position.

13.3 It is the Client's responsibility to obtain tax advice from a professional tax counsel confirming the intended tax effects and the absence of unintended tax effects before requesting or instructing Intertrust to set up any structure, incorporate any company or carry out any transaction. The Client represents and warrants to Intertrust that any request or instruction given to Intertrust is not in violation of the tax laws of any relevant jurisdiction. Intertrust is not required to verify compliance with applicable tax laws and regulations. Intertrust does not accept any responsibility for the tax aspects (in the broadest sense) of any structure or transaction in which a Client or Client Company is involved and for carrying out any request or instruction by a Client or a Client Company.

13.4 Upon first request by Intertrust (whether at the time of the conclusion of any Agreement, at the receipt of a request or instruction, or at any other point in time), the Client is required to provide (or to update earlier provided) tax advice from a reputable tax counsel. If the tax advice is not provided in a form reasonably acceptable to Intertrust within a reasonable period of time, Intertrust is authorised to instruct the reputable tax counsel for the provision of such tax advice on behalf of

the relevant Client Company and to charge the costs of said tax advice to that Client Company.

13.5 If Intertrust has reasonable doubts whether a request or instruction has the intended tax effects or believe that such request or instruction may violate the tax laws of any relevant jurisdiction and it is not provided with a tax opinion reasonably acceptable to it, Intertrust is allowed to postpone or not to carry out said request or instruction and shall not be held liable for any damage, including consequential damage and loss of profit or opportunity (including but not limited to the loss of a tax saving), incurred as a result of postponing and/or not carrying out such request or instruction, even if at a later point in time the Client or Client Company has demonstrated that the request or instruction had the intended tax effects and did not violate the tax laws of a relevant jurisdiction.

13.6 Intertrust, acting on its own behalf or on behalf of a Client Company, shall be authorised to retain – or to procure the retention of – such part of any payment or fund transfer as, in its reasonable view, is required to cover any (potential) liability to tax whether due in respect of that payment or in respect of any form of income, turnover, costs or profit realised or deemed realised by a Client Company or any other Client Company in the same structure for which Intertrust is providing services.

13.7 The Client or the Client Company, as the case may be, shall bear all stamp duty, notarisational fees, other documentary transfer or transaction duties and any other transfer taxes arising as a result of the conclusion of any agreement between Intertrust and the Client or the Client Company and/or the carrying out of any transaction with the Client or the Client Company.

13.8 Any sum payable under any agreement concluded between Intertrust and a Client or a Client Company is exclusive of any applicable indirect tax (which shall include any value added tax implementing the EU VAT Directive, and any other form of value added, sales or services tax).

13.9 If the Client or the Client Company, as the case may be, in respect of any fee, invoice, transaction, payment or funds transfer, is entitled to a lower rate of tax (which lower tax, for the purposes of this provision, shall include a full exemption), it shall provide Intertrust, on its own initiative or after a request by Intertrust, at the latest at such time as is necessary to allow Intertrust to apply such lower rate with the information or documentation required in a form reasonably acceptable to Intertrust, in the absence of which Intertrust shall be authorised to apply an applicable higher rate.

13.10 The Client hereby covenants with Intertrust to pay to Intertrust an amount equivalent to any amount payable by Intertrust to any tax authority in respect of a failure to discharge any tax levied, assessed or otherwise due by or for the account of the Client or the Client Company.

14. INDEMNITY

14.1 The Client shall fully indemnify Intertrust and hold Intertrust harmless from and against any threatened, past, pending or future claims, whether contractual or pursuant to wrongful act, dispute or controversy of any nature instigated by any person other than the Client arising, directly or indirectly, in connection with the performance by or on behalf of Intertrust of the right and/or obligations under the Agreement or the rendering of any Service, except for any claims resulting from fraud ('bedrog'), gross negligence ('grove nalatigheid') or wilful misconduct ('opzet') by Intertrust. Furthermore, the Client shall fully indemnify Intertrust and hold Intertrust harmless in the event that the Client Company fails to fulfil its obligations under any Agreement. The amount indemnified by the Client to Intertrust pursuant to this paragraph 14.1 shall include, but shall not be limited to, all damages, losses, taxes, fines, costs, expenses and legal fees, and any interest thereon, suffered, incurred, arising or expended that Intertrust may at any time directly or indirectly incur.

14.2 Insofar as the Services shall include the appointment of Intertrust as managing director of a Client Company, the Client shall indemnify Intertrust and

hold Intertrust harmless from and against any claims that result from or relate to:

- (a) a Non- Intertrust Director not properly performing its management duties or otherwise acting or omitting to act and as such giving rise to responsibility or liability of the Client Company and/or its managing directors; or
- (b) untimely or improper bookkeeping, to extent that Intertrust has not been entrusted with the bookkeeping of the Client Company.

15. LIABILITY OF INTERTRUST

15.1 Intertrust shall not be liable for any damages incurred by the Client or any of its Group Members as a result of or, directly or indirectly, in connection with the Agreement or Intertrust rendering the Services, unless such damages result from fraud ('bedrog'), gross negligence ('grove nalatigheid') or wilful misconduct ('opzet') by Intertrust.

15.2 Neither the Client nor any of its Group Members shall in any event be entitled to claim for any punitive, special, indirect or consequential damages or loss of profit or for any loss of goodwill or possible business, whether actual or prospective, as a result of or in connection with the Agreement or Intertrust rendering the Services.

15.3 To the extent legally permitted under any applicable law or regulation, the total liability of Intertrust for any actions, claims, losses, liabilities, damages, costs, charges or expense suffered or incurred by the Client or any of its Group Members arising, directly or indirectly, in connection with the Agreement or any Services rendered shall be limited to the amount paid-out in the relevant case, if any, under Intertrust's professional liability insurance policies, plus the amount of the own risk deductible that is not for the account of the insurers under the policy condition. In the event and to the extent that no monies are paid out under Intertrust's professional liability insurance policies for whatever reason, Intertrust's liability shall be limited to an amount which will not exceed the aggregate amount of fees paid for such part of the Services that gave rise to the claim over a period of the last twelve months.

15.4 In certain circumstances where Intertrust would be prejudiced as a result of arrangements between the Client and its professional advisors limiting their liability to the Client or where the Client is otherwise unable to recover from its advisors the full amount of any loss they have caused the Client and Intertrust would also be liable to the Client. Intertrust's liability to the Client will not be increased beyond what it would have been in the absence of those arrangements of circumstances.

15.5 The Client shall only bring a claim and shall procure that its Group Members shall only bring a claim against Intertrust (Netherlands) B.V. and not against any Intertrust Person (whether or not that individual or entity was involved in providing the Services to which such claim relates). No Intertrust Person will be held liable for or in connection with the Services or any matter relating to it. Insofar as articles 7:404 and 7:407 paragraph 2 of the Dutch Civil Code could undermine the foregoing, the application of these articles is explicitly excluded.

15.6 In no event shall Intertrust or any Intertrust Person be liable for any loss, damage, cost or expenses arising in any way from, or in connection with, any dishonest, deliberate or reckless misstatement, concealment or other conduct on the part of any other person.

15.7 Intertrust shall not be liable in respect of any claim unless a notice of the claim is given by the Client to Intertrust specifying said claim within 12 months following the act (or omission) that gave rise to the claim. Furthermore, all claims against Intertrust shall expire three months after the moment that the Client is aware or could reasonably have been aware of the existence of said claim.

16. PROCEDURE FOR RESOLVING CLAIMS

16.1 Any claim by either the Client or Intertrust under these Terms or in connection with an Agreement shall be notified to the other party in writing. The notice of claim shall give details of the claim and refer to this paragraph 16.1.

16.2 In case of a claim between the Client and Intertrust, the parties shall first attempt to resolve the claim amicably by negotiations. If any such claim is not resolved amicably by negotiations within 30 days from the date on which valid notice of the claim was given (or any longer period as is agreed by the Client and Intertrust in writing), it shall be finally settled in accordance with the dispute resolution set out in paragraph 21.

17. CONFIDENTIALITY

Neither Intertrust nor the Client shall disclose any documents or information relating to the other party, except in accordance with paragraph 4.3 or to the extent such information consists of information or data that is public knowledge.

18. NON-SOLICITATION

Intertrust on the one hand and the Client and its Group Members on the other hand undertake for the course of the Services being rendered and for a period of one year after termination of the Agreement, not to solicit or employ directly or indirectly any employees of the other party other than after mutual consultation and consent and written agreement of the relevant parties.

19. DATA PROTECTION

The Client and Intertrust undertake that they will comply with applicable personal data protection law, including the Dutch Data Protection Act ('Wet Bescherming Persoonsgegevens').

20. ENFORCEMENT

Only Intertrust and the Client shall have the right to enforce any of the provisions of these Terms, except that, in addition to Intertrust, any Intertrust Person may at all times invoke the provisions of these Terms for their own benefit as third party beneficiaries.

21. APPLICABLE LAW AND DISPUTE RESOLUTION

The Terms, the relationship between Intertrust and the Client and any non-contractual obligations arising out of or in relation to the Terms are governed by, and interpreted in accordance with Dutch law and any disputes arising out of or in connection therewith will be brought before the competent court in Amsterdam, The Netherlands, the relevant Client Company and to charge the costs of said tax advice to that Client Company.

