

# Terms of Business Trusts

## Trident Trust Company (South Dakota) Inc

Unless otherwise provided in the relevant governing instrument under which Trident Trust Company (South Dakota) Inc acts, the following terms of business of this Agreement shall apply in all cases where Trident Trust Company (South Dakota) Inc or any of its associated companies act as executor, administrator, manager, agent, adviser, trustee, fiduciary, attorney, partner or otherwise in relation to any estate, company, trust, partnership or other entity.

### 1. Definitions

“Associated Person” or “Associated Company” means in relation to a company, a company which is a subsidiary or affiliate of such company and any of its directors, officers or employees.

“Service Provider” means Trident Trust Company (South Dakota) Inc, any subsidiary or affiliated company and each of its employees, agents, officers and servants from time to time who are engaged in providing the Services.

“Client” means the Service Provider’s instructing party and the client of record, individually or jointly as the context requires, provided that if the Service Provider’s instructing party or client of record is a Trustee, the term Client shall refer to such Trustee solely in such Trustee’s fiduciary capacity and not in such Trustee’s individual capacity.

“Services” means any services provided by the Service Provider or its associated company, in its capacity as trustee, administrator, manager, agent, adviser, fiduciary, attorney, partner or otherwise in connection with any fiduciary arrangement including but not limited to trusts, company, estate, executorship, custodial or nominee appointment, power of attorney or other account as agreed by the parties in writing or otherwise from time to time.

“Special Company” means a corporation controlled or effectively controlled by a trust or account where its directors are not provided by the Service Provider and management is not within our control.

These Terms of Business together with the Letter of Engagement and the Establishment/Transfer-In Forms (collectively “the Agreement”) shall constitute the exclusive basis on which the Service Provider provides Services to the Client.

When Services are provided pursuant to this Agreement, the representations relating to the Client will (if given in consideration of the provision of Services by the Service Provider) be deemed to apply automatically, unless advised by Client to the contrary.

### 2. The Service Provider

- 2.1 The Service Provider shall, in the course of providing the Services, exercise skill and care as is reasonable in the circumstances and shall act as soon as reasonably practicable. Time shall not be of the essence of this Agreement unless otherwise advised by the Client.
- 2.2 The Client acknowledges that in connection with the provision of the Services, the Service Provider may be instructed by the Client to or be required to instruct a legal advisor, accountant or other third party provider of services. All professional fees and costs incurred in relation thereto shall be for the account of the Client who may either be invoiced directly by the third party service provider or through the Service Provider.
- 2.3 The Service Provider shall only take instructions from the Distribution Committee and the Investment Committee, if any or if none, from the Client. Subject to Clause 5.2, no instructions shall be taken from such third party or any information regarding the Client be provided to any third parties without the Service Provider having first obtained the permission of the Client.
- 2.4 The Service Provider shall be entitled to retain any profit or other benefit arising by way of fees, brokerage, commissions, perquisites or otherwise obtained or received by it in connection with any account, investment, deposit, note, debenture, obligation, employment, placement or business or transaction carried out on behalf of the Client, for its own personal use and benefit without being liable to account therefor to any person notwithstanding that such fees, brokerage, commissions or perquisites arose directly or indirectly by virtue of or in connection with the Service Provider having acted as a fiduciary.

### 3. The Client

- 3.1 The Client confirms his understanding that the trust is intended for purposes of maintaining confidentiality and avoiding probate formalities.

- 3.2 The Client confirms his understanding that the transfer of any assets belonging to the Client into a new trust constitutes a parting of the legal ownership of those assets.
- 3.3 The Client shall provide to the Service Provider such information as the Service Provider considers reasonably necessary in order to ensure compliance with all applicable legislation and any reporting disclosure or filing obligations as may be relevant.
- 3.4 The Client also undertakes the responsibility in complying with any reporting disclosure and/or filing obligations imposed upon the Client as settlor, beneficiary, protector, donor and/or transferor or in respect of any other capacity directly or indirectly connected with any trust arrangement.
- 3.5 The Client confirms and undertakes that all information provided or to be provided forthwith to the Service Provider by the Client or otherwise, is true complete accurate and not misleading in any material respects. The Client warrants that he is not aware of any fact of circumstance that might affect the Service Provider's decision in considering whether to provide the Services and further undertakes to disclose any matter forthwith that might affect the Service Provider's willingness to provide or continue to provide any of the Services.
- 3.6 The Client further warrants that Client and any person responsible for providing information to the Service Provider has taken all necessary tax and legal advice in all relevant jurisdictions, including outside South Dakota, and to ensure that the activities or proposed activities carried out in the course of providing the Services will not breach the laws of any relevant jurisdiction.
- 3.7 The Client acknowledges and confirms that the Service Provider is not responsible for advising the Client or any other relevant person on any tax or legal matter and further acknowledge that Client has been advised to consult with a professional advisor in regard to any tax and legal matter.
- 3.8 The Client shall provide full details of and promptly inform the Service Provider of any changes in its contact details.
- 3.9 The Client confirms and undertakes that any funds and/or assets conveyed or to be conveyed to the Service Provider are not derived from or connected with any activity which is illegal or unlawful in their country of origin or in the Client's country(s) of residence or any other relevant jurisdiction; and further, that the conveyance of such funds and/or assets are done lawfully without the object of avoiding claims by actual or foreseeable creditors or the circumvention of community property rights/joint ownership rights.
- 3.10 The Client confirms and declares that the Client has complied and undertakes to continue to comply with the tax laws and/or tax reporting obligations of the countries where the Client is and/or which the Client is subject to in relation to any asset that the Client has transferred and/or will transfer from time to time and any profits and/or gains derived therefrom.
- 3.11 The Client shall at all times hereafter indemnify and keep indemnified the Service Provider against all actions, suits, proceedings, claims, demands, costs, charges, expenses and consequences whatsoever which may be taken or instituted against the Service Provider by reason of or on account of the Service Provider providing the Services pursuant to this Agreement other than those arising by reason of the Service Provider's negligence or wilful misconduct.
- 3.12 Upon the termination of any appointment or assumption of duties by the Service Provider, the Service Provider reserves the right to require an ongoing indemnity as may be necessary in the circumstances in favor of the Service Provider on account of the Service Provider providing services pursuant to this Agreement other than those arising by reason of the Service Provider's negligence or wilful misconduct.
- 4. Fees & Invoicing**
- 4.1 Unless otherwise agreed in writing, the Service Provider shall be entitled to the fees in accordance with any schedule of fees or letter of charges that the Service Provider may inform the Client in writing from time to time.
- 4.2 All fees are payable annually in advance, and are non-refundable unless expressly stated otherwise. Fees shall be a first charge over trust or account.
- 4.3 If the Service Provider is administering a delegated trust, we may revalue trust assets from time to time for purposes of determining fees, with the cost of such valuation, if any, borne by the trust or account. In a directed trust, the person nominated in the trust as having the power to direct investments shall annually provide such values along with supplemental documentation of value.
- 4.4 The Service Provider calculates its fees on the gross value of assets (book value or market value whichever is higher) without regards to the value of liabilities.

- 4.5 The Service Provider reserves the right to charge additional fees for activities outside of the normal scope of trust administration such as buying, selling, administering or liquidating land or other properties, assisting with loans and creation of entities.
- 4.6 The Service Provider shall recover all reasonable out of pocket costs incurred in connection with any services provided, including but not limited to, legal, tax, audit and other professional fees, custody fees, brokerage, stamp duty, goods and services tax, investment management fees, postage, communication and courier charges etc.
- 4.7 The Service Provider shall not be required to incur any expenses or make any payments in the course of providing the Services unless the Service Provider is in receipt of sufficient funds in advance.
- 4.8 Invoices for the Services (which will include the amount of any disbursements) will be rendered to the Client's address unless another addressee is otherwise agreed to in writing with the Service Provider. The Client agrees to pay and discharge any such invoice forthwith on demand in the event that it remains unpaid 30 days after the due date for payment. Terms of payment are as stated in the invoices presented. If terms are not adhered to, the Service Provider reserves the right to charge interest on overdue accounts at the rate of 2% per month and to refuse to provide any further services until all outstanding invoices are settled.

#### 5. Information & Confidentiality

- 5.1 Subject to Clause 5.2, the Service Provider shall use all reasonable endeavors to keep confidential information provided to it by the Client.
- 5.2 The Client acknowledges that the Service Provider is bound by regulatory and other obligations under the laws of the United States and the State of South Dakota and agrees that any action or inaction on the part of the Service Provider carrying out such obligations shall not constitute a breach of the Service Provider's duties hereunder.
- 5.3 Any report, letter, information or advice the Service Provider gives to the Client pursuant to any representation given by the Client and/or the Client's advisors, is given in confidence solely for the purpose of such representation and is provided on condition that the Client undertakes not to disclose the same without the Service Provider's prior written consent.
- 5.4 The Service Provider shall not be required or obliged to take any action which it considers to be unlawful or improper or which may cause it to incur any personal liability and the Service Provider shall not be liable for refusing to take any such action.

- 5.5 Notwithstanding any provision hereof, the Service Provider shall be entitled and is irrevocably authorized to open and read all and any correspondence, letter, fax, electronic mail or other communication received by the Service Provider on behalf of the Client.
- 5.6 The Service Provider shall not be liable for any loss of information or inadvertent disclosure of information arising as a result of the use of electronic mail as a channel of communication. The Client acknowledges that it is fully aware of the risks of using unencrypted electronic mail.

#### 6. Notices & Instructions

- 6.1 Any notice or other document to be served under this Agreement must be in writing and may be delivered by hand or sent by prepaid letter post, facsimile transmission or email to the party to be served at that party's address as provided (or as varied from time to time by notice in writing).
- 6.2 The Service Provider may, in their discretion, accept and act upon instructions and directions given by telephone, facsimile transmission, electronic mail or through an affiliate of the Service Provider.
- 6.3 Unless otherwise provided in the relevant governing instrument under which Trident Trust Company (South Dakota) Inc acts, the Client hereby authorizes the Service Provider to communicate with him by unencrypted electronic mail and agrees that the Service Provider shall not be liable for any loss or be liable for any liability incurred by the Client by reason of the use of electronic mail (whether arising from viruses or otherwise) and hereby releases the Service Provider from any such liability. The Service Provider shall not be liable for any loss or damage caused by the transmission by it of an infected email.

#### 7. Assignment

The terms of this engagement shall be binding upon and endure for the benefit of the successors of the parties but shall not be assignable in whole or in part by any party without the prior written consent of the other parties.

#### 8. Termination & Suspension of Services

- 8.1 Either the Client or the Service Provider may terminate the service by giving no less than 90 days written notice or otherwise as agreed in writing. In such event, the obligations of the parties (save as set out in Clause 8.3 and in respect of antecedent breaches) shall cease and terminate.

- 8.2 This Agreement may be terminated with immediate effect by notice in writing by the Service Provider in the event that:
- (a) the other party commits any material breach of its obligations under this agreement or under any other agreement between the parties; or
  - (b) the other party goes into liquidation (except for the purpose of a bona fide solvent amalgamation or re-organization) or is declared bankrupt; or a bankruptcy petition is presented against it or a receiver is appointed in respect of it; or
  - (c) any legal proceedings are commenced against the Client (including any injunction or investigation proceedings or any incident that may bring the reputation or standing of the Service Provider into disrepute).
- 8.3 Termination shall be without prejudice to any rights or liabilities of any party either arising prior to termination or arising in respect of any act or omission occurring prior to termination.
- 8.4 In the event of termination, the Service Provider shall not be obliged to return all or any part of the fees and expenses paid to it hereunder (save for amounts paid on account of disbursements to be incurred).
- 8.5 In the event of termination, the Service Provider and the Client shall each arrange that all such acts are done as may be necessary to give effect to such termination and the Client shall within 30 days of the date of termination procure the appointment of a successor service provider and the Service Provider shall, subject to payment of all amounts due to it, cooperate with the Client in relation to such appointments.
- 8.6 The Service Provider shall be responsible for the preparation and filing of any necessary documentation required to effect any transfer to a successor Service Provider and the applicable rate for undertaking this service shall be invoiced and settled by the Client prior to the filing of the document.
- 8.7 The Client acknowledges that notwithstanding the right of the Service Provider to terminate or suspend its services in accordance herewith, the Service Provider (and/or its officers, agents and employees) may have continuing regulatory/ fiduciary duties under applicable law. Accordingly, without prejudice to its rights, it is agreed that the Service Provider shall be entitled (but not obliged) to continue to provide services so as to discharge such duties and shall be entitled to charge its applicable rate and avail itself of the indemnities stated in Clause 3.11 for the

provision thereof/and to reserve the right to require any ongoing indemnity similar to that in Clause 3.12 for the provision thereof.

#### 9. Monies Held by the Service Provider

Monies held by the Service Provider on behalf of the Client shall be segregated from the Service Provider's assets and/or held in a Clients Account in trust for the Client.

#### 10. Entire Agreement

These Terms of Business, the Letter of Engagement and the Establishment/Transfer-In Forms shall constitute the entire agreement between the parties in relation to the provision of Services and may only be varied by agreement in writing signed by or on behalf of the parties.

#### 11. Law & Jurisdiction

The Agreement shall be governed by and construed in accordance with the laws of South Dakota and any dispute arising in respect thereof shall be subject to the jurisdiction of the courts of South Dakota and the Client hereby submits to the jurisdiction of such courts.

#### 12. Special Company Provisions

The Client acknowledges that as a condition for a trust or account owning a Special Company, the Client shall provide copies of annual accounts, notices, and insurance if requested. The Client or Directors shall advise of any unusual or significant transaction contemplated for the Special Company. The Client or beneficiaries shall execute a satisfactory trustee's indemnity.

#### 13. Other Provisions

13.1 The Service Provider shall have the right to employ any bank on terms equivalent to terms customarily offered by such banks, to employ legal or investment advisers, auditors and accountants, property agents, valuers, to employ nominees (including any affiliate), custodians or agents of any kind in connection with services provided, and any such expenses shall be borne by the Client.

13.2 The Service Provider shall be entitled to amend these Terms of Business from time to time provided that the Service Provider shall give reasonable advance notice in writing to the Client before such amended Terms of Business shall take effect.

Acknowledged this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Signature of Client