

## Terms and Conditions (these "Terms") for the Provision of Strike Off Services by Maples Fiduciary Services (UK) Limited ("MFLN") to a Company in the United Kingdom

### Interpretation

In these Terms, the following words shall have the following meanings:

"**Act**" means the Companies Act 2006;

"**Companies House**" means the Registrar of Companies for England and Wales;

"**Company**" means the company named in the Resolutions (as defined below);

"**Directors**" means the directors or managers from time to time of the Company;

"**Effective Date**" means the date on which these Terms are agreed;

"**Electronic Communications Act**" means the Electronic Communications Act 2000;

"**Electronic Record**" has the same meaning as in the Electronic Communications Act;

"**Maples Group**" means MFLN and all other direct and indirect subsidiaries of Maples International Holdings Limited as well as the Cayman Islands partnership known as The Maples Group Partnership, and all the entities and undertakings using the name "Maples", "Maples and Calder" or "MaplesFS", including any derivation thereof, listed at [www.maples.com/legalnotices](http://www.maples.com/legalnotices); and

"**PSC**" means people with significant control within the meaning of the Act;

"**Register**" means the register of companies maintained by Companies House; and

"**Resolution**" means the special resolution to commence the striking off of the Company's affairs in accordance with the Act.

In these Terms:

- (a) section headings are included for convenience only and shall not affect the interpretation of these Terms;
- (b) use of the singular includes the plural and vice versa;
- (c) use of any gender includes all other genders;
- (d) any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
- (e) references to provisions of any law or regulation shall be construed as references to those provisions as amended, modified, re-enacted or replaced;
- (f) references to any document or agreement are to be construed as references to such document or agreement as is in force for the time being and as amended, varied, updated, supplemented, substituted or novated from time to time;

- (g) no person shall be found to have committed actual fraud or wilful default unless or until a court of England and Wales has reached a final non-appealable determination to that effect;
- (h) "written", "in writing" and "maintain" include all modes of representing, reproducing or maintaining words in visible form, including in the form of an Electronic Record;
- (i) any requirements as to delivery under these Terms include delivery in the form of an Electronic Record; and
- (j) any requirements as to execution or signature under these Terms can be satisfied in the form of an electronic signature as defined in the Electronic Transactions Act.

### Appointment of MFLN to provide the Services

The Company wishes to appoint MFLN to provide the following services (the "**Services**") relating to the proposed strike off of the Company:

- (a) based solely on the information provided to MFLN by or on behalf of the Company, prepare a letter to Companies House and draft Directors' resolutions for the Company (the "**Resolutions**"), each relating to the proposed strike off of the Company from the Register; and
- (b) following the Company's review and approval of the draft letter and Resolutions, file the executed letter and Resolutions with Companies House.

Where the Company and MFLN have expressly agreed in writing (including by email) that MFLN shall prepare and send a notice to the interested parties in the manner contemplated by Section 1006 of the Act, the preparation and sending of such notice shall also constitute "Services" for the purposes of these Terms.

MFLN has agreed to provide the Services, subject to the condition precedent that MFLN is in receipt of confirmation that the Company is not carrying on business and is not in operation. Subject to the satisfaction of the foregoing condition, MFLN shall provide the Services from the Effective Date.

### Documents and Information to be Supplied by the Company

The Company understands and agrees that the Act impose important obligations and consequences on the Company in connection with a members voluntary liquidation and that there are serious criminal consequences for the Company and/or its Directors if it breaches the Act.

The Company shall provide the following promptly on request from time to time by MFLN:

- (a) a written explanation of the nature of the Company's business and source of funds and an indication of actual and expected turnover;
- (b) evidence satisfactory to MFLN of the identity of, and references in relation to, (i) each of the Members and principal beneficial owners of the Company holding not less than a 25% interest in the Company or with principal control over the Company's assets; (ii) the Directors; and

(iii) any person (or persons) on whose instructions MFLN may act in relation to the Company or is a PSC; and

- (c) such other information and documentation as MFLN may from time to time reasonably require in relation to the Company, its Directors, Members or activities including in relation to the steps taken pursuant to the paragraph below.

The Company shall, for the benefit of MFLN, take all reasonable steps to satisfy itself that all capitalisation monies and other funds passing through the Company do not represent the proceeds of, and that it does not engage in, any unlawful activity.

MFLN shall have a right of access to the Company's books and records as MFLN may require for the purposes of these Terms or the provision of Services. Without limiting the generality of the foregoing, the Company shall promptly provide MFLN with:

- (a) any information that MFLN may require for the purposes of these Terms or the provision of the Services;
- (b) properly certified or authenticated copies of the Constitutional Documents and all amendments thereto and of such resolutions, votes and other proceedings as may be necessary or relevant to MFLN for the purposes of these Terms; and
- (c) a Directors' declaration of solvency signed by each of the Directors prior to the passing of the Resolution

MFLN may refuse to perform any or all of its obligations if it determines, in its sole and unfettered discretion, that to do so would constitute a criminal or regulatory offence in the United Kingdom or would otherwise contravene English laws. MFLN will, if legally permitted to do so, inform the Company promptly of any decision to refuse to perform an obligation made in accordance with this provision.

#### Services Non-Exclusive

The staff provided by MFLN shall not be required to devote their full time and attention to the strike off of the Company and may, without limitation, engage in any other business and/or be concerned or interested in or provide services to any other company or other entity (whether corporate or incorporate). The Company acknowledges that each staff member will in fact be engaged with a large number of other companies and entities to which MFLN or its affiliates provides services and that any such companies or entities may compete either directly or indirectly with the Company.

MFLN shall be at liberty to provide services of a like nature to any other person or persons it may think fit whether for its own account or that of any other person.

Neither MFLN nor any member of the Maples Group nor any company, partnership or other person associated with MFLN or the Maples Group shall, in consequence of the appointment of MFLN pursuant to these Terms or in consequence of any transaction entered into by the Company with MFLN (or with any member of the Maples Group), be liable to account to the Company for any profits (whether disclosed or not) accruing to MFLN (or to the Maples Group) from, or by virtue of, any such transaction.

#### Fees

As remuneration for performing the Services, MFLN shall be entitled to receive a base fee (the "**Base Fee**") in such amount as agreed in writing, plus such other fees as are reasonably and properly incurred in connection with the provision of the Services.

The Base Fee may be increased by MFLN from time to time by agreement in writing with the Company.

The Company shall also pay or reimburse MFLN for its reasonable and properly incurred out-of-pocket expenses for registry fees, photocopying, telephone, printing, postage and other communications charges, document handling and archiving, and any other similar expenses, costs, fees or charges paid by MFLN on behalf of the Company in connection with the performance of the Services.

If MFLN is requested to undertake any services not covered in these Terms, it shall inform the Company that such services are not covered by these Terms and, if MFLN agrees to provide such services, unless otherwise agreed, MFLN shall charge the then applicable fixed rate for such service or, if inapplicable or higher, the then applicable time charges incurred by MFLN's officer(s) and/or employee(s) in carrying out such services.

All fees, expenses and disbursements payable to MFLN pursuant to these Terms shall be paid net of any taxes or surcharges.

All fees and expenses shall be payable within thirty (30) days of the date of the applicable invoice (such date, the "**Invoice Due Date**"). MFLN reserves the right to charge interest in the event that an invoice remains unpaid following the Invoice Due Date. If MFLN exercises its right to charge interest, such interest will be at a daily rate of 7% per annum above the Secured Overnight Financing Rate (SOFR) in effect at the relevant times the applicable invoice remains outstanding or at the maximum interest rate permitted by applicable law, whichever is less, until payment in full of the applicable invoice.

#### Duties of the Company

MFLN shall have a right of access to the Company's books and records as MFLN may require for the purposes of these Terms or the provision of Services.

#### Representations and Warranties

MFLN represents and warrants to the Company that:

- (a) it is duly incorporated and in good standing under the laws of England and Wales and has and shall at all times have the necessary power to enter into and perform its obligations under these Terms and has duly authorised the entry into these Terms;
- (b) these Terms constitute its legal, binding and enforceable obligation;
- (c) the execution, delivery, observance and performance by MFLN of these Terms shall not result in any violation of any law, statute, ordinance, rule or regulation applicable to it; and
- (d) it has obtained all the necessary authorisations and consents to enable it to enter into these Terms.

The Company represents and warrants to MFLN that:

- (a) it is duly incorporated and is in good standing under the laws of the jurisdiction of incorporation and has and shall at all times have the necessary power to enter into and perform its obligations under these Terms and has duly authorised entry into these Terms;
- (b) these Terms constitute its legal, binding and enforceable obligation;
- (c) the execution, delivery, observance and performance by the Company of these Terms shall not result in any

violation of any law, statute, ordinance, rule or regulation applicable to it; and

- (d) it has obtained all the necessary authorisations and consents to enable it to enter into these Terms.

### **Responsibility and Limitation of Liability**

No Indemnified Person shall be liable to the Company or any other person for any damage, loss, claims, proceedings, demands, liabilities, costs or expenses whatsoever suffered or incurred by the Company or any other person at any time from any cause whatsoever unless arising directly as a result of the Indemnified Person's actual fraud or wilful default. The remaining provisions of this "Responsibility and Limitation of Liability" section shall not be construed so as to limit the generality of this paragraph.

Notwithstanding anything in these Terms to the contrary no Indemnified Person shall be liable in tort, statutory duty, pre-contract or misrepresentation (other than fraudulent misrepresentation) or otherwise for (i) any consequential, indirect or special loss or damage; or (ii) any economic losses (including loss of revenues, profits, contracts, business or anticipated savings), arising out of or in connection with these Terms, in each case whether or not MFLN has been advised of the possibility of such loss or damage and howsoever incurred. For the avoidance of doubt MFLN shall not be so liable for any loss of goodwill or reputation.

MFLN shall not be responsible for any failure or delay in performing its obligations under these Terms as a result of Companies House's online portal being offline, unavailable, wholly or partially disabled or severely delayed.

MFLN shall not be required to take any legal action (including the institution or defence of any proceedings) on behalf of the Company.

Notwithstanding any other provision of these Terms, MFLN shall not be responsible for the performance of any other function carried out by any service provider on behalf of the Company.

Unless caused by their actual fraud, the maximum aggregate liability of all Indemnified Person(s) under these Terms shall be limited to an amount not exceeding three times the fees paid to MFLN for the Services in the twelve month period prior to:

- (a) the final non-appealable determination of liability by a court of England and Wales; or
  - (b) the termination of these Terms,
- whichever is greater.

The provisions of this "Responsibility and Limitation of Liability" section shall survive the termination of these Terms.

### **Indemnity**

The Company shall indemnify (on a full indemnity basis) and hold harmless the Indemnified Persons against all liabilities, obligations, losses, damages, penalties, actions, proceedings, claims, judgments, demands, costs, expenses or disbursements of any kind (including legal fees and expenses) whatsoever (an "Indemnified Loss") which they or any of them may incur or be subject to over any claim or matter arising under or in connection with these Terms or as a result of the performance of these Terms or as a result of the performance of the Services and/or arising out of, or in connection with any delay or failure by the Company to perform its obligations under these Terms, except to the extent that the same are a result of the actual fraud or wilful default of the relevant Indemnified Person and this indemnity shall expressly

inure to the benefit of any such Indemnified Person existing or future.

An Indemnified Person shall be entitled to receive regular advances from the Company to cover the cost of defending an Indemnified Loss provided that the Indemnified Person enters into a written agreement that all such advances shall be repaid to the Company (without interest) if a court of England and Wales has reached a final non-appealable determination that the Indemnified Person is not entitled to the indemnity under the first paragraph of this section.

If an Indemnified Person is found to have committed actual fraud or wilful default all advances made pursuant to the paragraph immediately above shall be reimbursed to the Company.

The provisions of this "Indemnity" section shall survive the termination of these Terms.

### **No Commercial Advice**

For the avoidance of doubt the Company agrees that MFLN is not responsible for the commercial structuring of the Company or its business, its investment strategy or objectives or for the rendering of investment, commercial, legal, accounting or any other advice whatsoever to the Company or any other person or for evaluating any such advice otherwise received by the Company or the Directors.

### **Force Majeure**

In these Terms, the expression "Force Majeure" shall mean each (or combinations) of the following causes affecting the performance by a party of its obligations under these Terms:

- (a) "act of God", explosion, fire, accident, lightning, tempest, hurricane, flood, fog or bad weather;
- (b) outbreak of war, hostilities, riot, civil disturbance, act of terrorism;
- (c) pandemic, epidemic, disease, outbreak, communal medical event, quarantine, shelter in place order, or similar occurrence;
- (d) strikes and labour disputes of all kinds (other than strikes or labour disputes of the party claiming the Force Majeure event);
- (e) compliance with any law or governmental order; and
- (f) any cause or circumstances whatsoever beyond the reasonable control of the party seeking to rely on the delay.

If either party is prevented or delayed in the performance of any of its obligations under these Terms by any of the events in the first paragraph of this section, that party shall as soon as practicable serve notice in writing on the other party, specifying the nature and extent of the circumstances giving rise to Force Majeure, and shall subject to service of such notice and to the fourth paragraph of this section have no liability in respect of the performance of such of its obligations as are prevented by the Force Majeure events during the continuation of such events, and for such time after they cease as is necessary for that party, using all reasonable endeavours to recommence its affected operations in order for it to perform its obligations.

If either party is prevented from performing its obligations for a continuous period in excess of three months, either party may terminate these Terms immediately on service of written notice upon the party so prevented, in which case neither party shall have any liability to the other except that rights and liabilities which accrued prior to such termination shall continue to subsist (save that the provisions of the "Responsibility and Limitation of Liability",

"Indemnity" and "Confidential Information" sections shall remain in force).

The party claiming to be prevented or delayed in the performance of any of its obligations under these Terms by reason of Force Majeure shall use reasonable endeavours to bring the Force Majeure event to a close or to find a solution by which these Terms may be performed despite the continuance of the Force Majeure event.

#### **Confidential Information**

Each of MFLN and the Company undertakes that it will not, other than in connection with the provision of the Services, at any time hereafter use, divulge or communicate to any person, except to its directors, officers, employees, agents, affiliates and professional representatives (the "**Representatives**") or advisers or as may be required to be disclosed by any applicable law or required to be disclosed to, or is accessible by, any stock exchange or governmental, judicial, regulatory or supervisory body or authority, any confidential information concerning the business or affairs of the other party or of any member of the group of companies or other entities to which the other party belongs which may have or may in future come to its knowledge and each of the parties shall use its reasonable endeavours to prevent the publication or disclosure of any confidential information concerning such matters.

#### **Electronic Communication**

MFLN may communicate by e-mail in providing the Services. E-mail communication is not secure and can be subject to possible delay, data corruption, interception, amendment or loss. The Company accepts the inherent risks of communicating by e-mail including the possible unauthorised interception, redirection, copying or review of e-mails and attachments and the transmission of viruses. The use of e-mail by MFLN to communicate and transmit information will not in and of itself constitute a breach of MFLN's confidentiality obligations under these Terms.

The terms of this "Electronic Communication" section shall survive the termination of these Terms.

#### **Use of Technology and Artificial Intelligence**

In providing services to the Company, MFLN may use a range of technologies provided by third-party service providers. Such technologies may include, but are not limited to, those that facilitate minute-taking, document digitisation, document automation, audio transcription, remote conferencing, workflow management, electronic discovery, and digital signature, including those that may utilise artificial intelligence capabilities and/or cloud-based systems. MFLN exercises reasonable care and skill in selecting and utilising such technologies in accordance with its legal, regulatory, and professional obligations, as well as these Terms, including by employing appropriate technical and organisational measures to protect the security and privacy of any information shared with the relevant service providers.

#### **Non-Exclusivity**

MFLN may provide similar services to any other company, entity or person on such terms as may be arranged with such company, entity or person, provided that the provision of the Services is not thereby impaired, and may retain for its own use and benefit fees or other money payable thereby; and MFLN shall be deemed not to be affected with notice of, nor be under any duty to disclose to the Company, any fact or thing which may come to the knowledge of MFLN or any employee or agent of MFLN in the course of so doing or in the course of its business in any other capacity or in any manner whatsoever, otherwise than in the course of carrying out the Services.

#### **No Partnership and No Employment Relationship**

Nothing in these Terms shall constitute a partnership between MFLN and the Company.

The directors, officers, employees or agents of MFLN shall not be deemed to be employees of the Company or entitled to any remuneration or other benefits from the Company.

#### **Termination**

These Terms and the appointment of MFLN hereunder shall continue until the strike off of the Company, unless these Terms are terminated by either party giving at least fourteen (14) days' notice in writing to the other party.

A termination of the appointment of MFLN under the provisions above shall be without prejudice to any antecedent liability of the parties to these Terms. MFLN shall be entitled to receive all fees and other moneys accrued due up to the date of such termination, whether under these Terms or otherwise.

#### **Notices**

Any notices to be given and any correspondence or communications to be delivered or forwarded pursuant to these Terms shall be sufficiently served, delivered or forwarded if sent by email, prepaid airmail or by fax transmission and shall be deemed to be given (in the case of email and fax transmission) at 10.00 a.m. on the next business day in the place of receipt following dispatch or (in the case of the post) ten (10) days after dispatch and shall be sent:

- (a) in the case of MFLN, to DUO, Level 6, 280 Bishopsgate, London, EC2M 4RB, England (marked for the attention of the Liquidations Team) or by email to [London.Structured@maples.com](mailto:London.Structured@maples.com);
- (b) in the case of the Company, to its registered office; and
- (c) to such other address or for the attention of such other person as may from time to time be notified by one party to the other party by notice given in accordance with the provisions of these Terms.

#### **Delegation of Services**

MFLN may, at its own expense, delegate all or any of the services on its part to be performed under these Terms to any agent or delegate (including, for the avoidance of doubt, recovering on behalf of MFLN all fees, expenses and disbursements payable by the Company under these Terms). If MFLN does delegate all or any of the services to an agent or delegate in accordance with this paragraph (a "**Delegate**"), MFLN shall nonetheless remain solely responsible to the Company for the provision of the services and liable to the Company for any loss caused to the Company by the Delegate but only to the extent that MFLN would have been liable for such loss under these Terms if such loss were caused by MFLN itself and the Delegate shall have no liability of any sort whatsoever or howsoever arising under these Terms or as a consequence of the delegation of all or any services to it. The Company agrees that it may not bring any claim against any Delegate in relation to the provision of services under these Terms by MFLN.

#### **Data Protection**

In providing the services and otherwise fulfilling its obligations under these Terms, MFLN may from time to time be required to process information which: (i) constitutes "personal data" as defined in Article 4(1) of Regulation (EU) 2016/679 of 27 April 2016 as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act 2018 ("**UK GDPR**"); and (ii) is disclosed to or

otherwise made available to MFLN by or on behalf of the Company ("**Relevant Personal Data**").

If and to the extent MFLN acts as a "controller" (as defined in Article 4(7) of UK GDPR) in respect of the Relevant Personal Data, the Company acknowledges that MFLN may process the Relevant Personal Data in accordance with the applicable data protection law (including UK GDPR) and MFLN's privacy notice, which is available online at <https://www.maples.com/privacy/> or upon request.

If and to the extent MFLN acts as a "processor" (as defined in Article 4(8) of UK GDPR) in respect of the Relevant Personal Data, the provisions of the "Data Processing Addendum" (in the form available at <https://www.maples.com/privacy/>) shall apply in respect of any processing of Relevant Personal Data undertaken by MFLN.

#### **Severance**

If any provision of these Terms shall be determined to be void or unenforceable in whole or in part for any reason whatsoever such invalidity or unenforceability shall not affect the remaining provisions or any part thereof contained within these Terms and such void or unenforceable provisions shall be deemed to be severable from any other provision or part thereof herein contained.

#### **Assignment**

These Terms may not be assigned by either party without the written consent of the other save only that MFLN may assign the benefit and/or burden of these Terms to a Maples Group entity as part of any group restructuring.

#### **Entire Agreement**

These Terms supersede all previous agreements between MFLN and the Company for the provision of the Services to the Company. These Terms set out the entire agreement and understanding between the parties with respect to its subject matter.

#### **Variation**

The Company acknowledges and agrees that MFLN may, in its sole discretion, at any time and from time to time change, alter, adapt, add or remove portions of these Terms, and, if MFLN does so, MFLN will post any such changes on the MFLN website ([www.maples.com](http://www.maples.com)) bearing the date on which such Terms came into effect. The current version of these Terms is also available on request. The Company's continued use of the Services following any such change shall be deemed and constitutes the Company's acceptance of those changes and the Company acknowledges and agrees to be bound by the current version of these Terms at all times and that unless stated in the current version of these Terms all previous versions shall be superseded by the current version.

#### **Complaints**

If the Company has any complaint about any aspect of the service being provided under the Agreement, the Company should raise its concern with its usual Maples Group contact. If the complaint is not thereafter resolved to the Company's satisfaction, the Company should email the complaint to [notices@maples.com](mailto:notices@maples.com) and the complaint will be considered by the head of the applicable operating division.

In the event that your complaint is still not resolved to your satisfaction, you may refer the complaint to the Insolvency Service at [Complain about an insolvency practitioner - GOV.UK](http://www.gov.uk) ([www.gov.uk](http://www.gov.uk)). The Insolvency Service requires a complainant to first raise the complaint directly with MFLN.

#### **Third Party Rights**

A person who is not a party to these Terms may not, in its own right or otherwise, enforce any term of these Terms except that the Indemnified Persons may, in their own right, enforce their rights pursuant to the Responsibility and Limitation of Liability and Indemnity provisions of these Terms subject to and in accordance with the provisions of the Contracts (Rights of Third Parties) Act 1999.

Notwithstanding any other term of these Terms, the consent of any person who is not a party to these Terms (including, without limitation, any Indemnified Person or Delegate) is not required for any amendment to, or variation, release, rescission or termination of the Terms.

The provisions of this "Third Party Rights" section shall survive the termination of these Terms.

#### **Law and Jurisdiction**

These Terms and any dispute, claim, suit, action or proceeding of whatever nature arising out of or in any way related to it or its formation (including any non-contractual disputes of claims) are governed by, and shall be construed in accordance with, English law.

Each of the parties to these Terms irrevocably agrees that the English courts shall have exclusive jurisdiction to hear and determine any claim, suit, action or proceeding, and to settle any disputes, which may arise out of or are in any way related to or in connection with these Terms, and, for such purposes, irrevocably submits to the jurisdiction of such courts.