



## CUSTOMER TERMS OF SERVICE

These Terms of Service along with any other documents referenced or incorporated herein (as amended from time to time, the "**Terms**") govern and apply to any engagement or provision of products or services ("**Services**") by Globacap Limited or one or more of its affiliates ("**Globacap**") to any person or entity (a "**Customer**").

If you are engaging our Services or agreeing to these Terms on behalf of a company or other entity (such as your employer, your business, or your client) then 'Customer' means that company or entity, and you represent and warrant to us that you have authority to bind that company or entity and that you agree to these Terms on behalf of that company or entity and these Terms will be a contract between us and that company or entity as Customer.

THESE TERMS ARE A LEGALLY BINDING AGREEMENT BETWEEN GLOBACAP AND THE CUSTOMER, AND YOU CONFIRM YOUR AGREEMENT TO THESE TERMS, BY EITHER: (I) CLICKING ON A BUTTON OR CHECKING A CHECKBOX FOR THE AGREEMENT TO OR ACCEPTANCE OF THESE TERMS; OR (II) REGISTERING TO, USING OR ACCESSING ANY SERVICE. THESE TERMS MAY ALSO BE INCORPORATED INTO ANY OTHER WRITTEN AGREEMENT BETWEEN US FROM TIME TO TIME.

These Terms will also be binding on any Users of any Customer and any person acting for a Customer or agreeing these Terms on behalf of a Customer. Accordingly in these terms "**you**" or "**your**" refers both to the Customer and to the person(s) acting on their behalf and agreeing to these Terms and to any Users of the Customer.

We may periodically update these Terms, and thereby the agreement in place between Globacap and the Customer relating to Services, as set out in paragraph 18 and those amendments will be binding as between you and Globacap on the relevant amendment effective date. References to "**we**", "**us**" or "**our**" in these Terms is to Globacap.

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### 1. Services

- 1.1 Globacap may provide one or more Services to the Customer from time to time.
- 1.2 Services may be agreed to in various ways, including via an Order Form or a Contract.
- 1.3 Order Forms or Contracts may also include by reference these Terms or other terms, conditions, or documents, and we may by written agreement between us, or by notice to you specify, additional specific terms that will apply to one or more Services in addition to these Terms.
- 1.4 If we have sent you an Order Form, and you proceed to engage the Services described in that Order Form, you are deemed to have agreed to the pricing, terms, or other conditions set out in that Order Form.
- 1.5 We may add, modify or discontinue any feature, functionality or any other tool, within the Services, at our own discretion and without further notice, however, if we make any material adverse change in the core functionality of the Services, then we will notify you.
- 1.6 You hereby acknowledge that your purchase of the Services are not contingent on the delivery by us of any future release of any functionality or feature, or dependent on any comments we make, orally or in writing, public or in private, regarding any future functionality or feature.

### 2. Account

- 2.1 *Registration.* To register for a Service for the first time you shall (or we shall on your behalf on your instruction) create an account (an "**Account**") for the specified company or other entity which will be the "Customer" for that Account. We will generally create a separate Account for each Customer even if those Accounts or Customers are represented by the same Users or Admins.
- 2.2 *Customer Registration Information.* Where you provide us with any information as part of the Account creation or set-up process or otherwise in connection with any Services you agree to provide us with accurate, complete, and current information (and represent and warrant that any information provided to us is true complete and accurate and not misleading in all respects).
- 2.3 *Users and Admins.* Each Customer and each Account will have one or more Users and Admins (see paragraph 3 for details). Where you are setting up any Users or Admins you agree that information you provide

relating to that User or Admin is true, complete and accurate. The person setting up the Account on behalf of the Customer will be designated automatically as the initial Admin for that Account.

2.4 *Account security.* It is the Customer's responsibility to ensure that each of its Users keep their access credentials safe and secure and Globacap has no liability for any unauthorised access by a User by someone using their access credentials. If the Customer becomes aware of any unauthorised activity on its Account or relating to any Services it must inform Globacap as soon as possible in writing. It is the Customer's and its Users' responsibility to ensure that any electronic devices through Services are accessed are safe (including protection from virus, malware, or other electronic attack or compromise) and maintaining adequate security and control of any and all devices or security details that are used to access the Services. This includes the Customer and its Users taking all reasonable steps to avoid the loss, theft or misuse of those electronic devices and ensuring that those electronic devices are password protected or otherwise secured.

2.5 *Verification.* We may require the Customer or any User to provide information that may be used to confirm its identity and help ensure the security of the Account and/or any User credentials or profile. In the event that you or a User ask us to restore access, reset passwords, or otherwise assist with an Account or gaining or resetting access to an Account, we reserve the right to request from you or such User (as the case may be) any verification we deem necessary before taking any action.

### 3. **Users, Admins & Stakeholders**

#### 3.1 *Users*

(a) In these Terms, "**Users**" means individuals who are authorised by Customer to access the Platform on Customer's behalf or for Customer's benefit relating to one or more Services and/or to use or give instructions relating to those Services or the Platform.

(b) Users may include but are not limited to directors, employees, consultants, contractors and agents of Customer, or any professional services providers, advisors or third parties authorised by the Customer.

(c) Users will be deemed to be an authorised representative of the Customer. Any decision or action made by a User or an instruction from a User is deemed to be an authorised instruction from the Customer, and the Customer undertakes to ratify any action taken by any of its Users.

(d) Customer represents and covenants that it and any of its Users will only use Services in compliance with Globacap's published policies then in effect and all applicable laws.

(e) Customer shall make all reasonable efforts to prevent any persons other than its authorised Users from accessing any Services, and notify Globacap promptly of any such unauthorised access or use.

(f) Customer understands and agrees that each User constitutes one individual and log-on credentials for each User may not be shared.

#### 3.2 *Admins*

(a) If a User is designated by the Customer as an 'admin' User (an "**Admin**") in addition to having the characteristics of and being a User they will have important additional privileges and powers compared to non-Admin Users, including to (i) control the Customer's and other Users use of the Services, (ii) add Stakeholders, (iii) control and administer the Customer's Securities, (iv) purchase, upgrade or adjust the Services, (v) create, monitor or modify Users' actions including adding or removing other Admins, and (iv) give instructions on behalf of the Customer including with respect to Services.

(b) Admins can adjust and amend the Customer's Securities and any records or registers of those Securities maintained using the Platform or forming part of any Services, and can also increase the Fees payable for Services, for instance agreeing to new Services or pricing, or adding new Stakeholders.

(c) The first User of a Customer will be automatically designated as an Admin. There must always be one Admin for a Customer and an Account, and if there is only one User on or remaining on an Account that User will automatically be an Admin. If no Admins are designated we may at our discretion suspend an Account, certain parts of the Account or Services, or other Users access or certain parts of their access to that Account pending instructions from the Customer as to who will be designated as Admin for that Customer or Account.

#### 3.3 *Responsibility*

(a) Customer is responsible for all acts and omissions of any User (including any Admin), and is solely responsible for determining and controlling who is specified as a User, and as an Admin, in respect of it and its Account. Globacap has no liability for or in connection with the actions of any User or Admin.

(b) Any person that owns or controls the access credentials associated with a User (or an Admin) will have the powers and rights of that User (or that Admin, as applicable). The Customer is solely responsible for ensuring that only the relevant User (or Admin) utilises its access credentials, and that the relevant User (or Admin) does not share or compromise its access credentials.

(c) The relationship between the relevant User(s) or Admin(s) and the Customer is solely between Customer and the applicable User and Globacap shall have no liability in connection therewith.

### 3.4 Stakeholders

(a) In these Terms "**Stakeholder**" means each unique individual or entity that is the holder or beneficial owner of any Security of the Customer (including without limitation any shareholder, optionholder, convertible holder, warrant holder, or a beneficial holder behind any nominee, or any other holder or beneficial owner of any securities or similar instruments issued by the Customer or the subject of any Services).

(b) Where applicable, Globacap is not responsible for the accuracy of any information relating to a Stakeholder submitted by a Stakeholder or any User (or the Customer or its representatives). In respect of any information submitted by it or on its behalf (including by any User) Customer will be solely responsible for any information or other information submitted relating to or in respect of a Stakeholder, including the accuracy of that information.

(c) Certain Services and/or functionality relating to Services and the Platform may require that (i) Stakeholders have a live Globacap account, and/or (ii) Stakeholders are onboarded with Globacap including passing any applicable Onboarding / AML Requirements. If a Stakeholder does not have a Globacap account or has not satisfied applicable Onboarding / AML Requirements, that Stakeholder may not be able to access certain functionality, and Customer may therefore may not be able to utilise (or utilise fully) Services or available functionality. It is the responsibility of the Customer to procure that each Stakeholder registers for a Globacap account and (where needed) satisfies any applicable Onboarding / AML Requirements.

(d) Globacap will have no liability in respect of any degradation of service or lack of functionality or inability of the Customer or Stakeholders to access functionality caused by any Stakeholder(s) not creating accounts on the Globacap platform or not initiating or passing any initial or ongoing Onboarding / AML Requirements.

(e) Any Stakeholders that have a Globacap account or sign up for a Globacap account will be customers of Globacap in their own capacity and Globacap reserves the right to communicate directly with any of its clients (including such Stakeholders) and such communication may include promotional and marketing materials, subject in each case to applicable laws. Any confidentiality obligations between the parties will be subject to this paragraph.

## 4. Information; Responsibility

4.1 Customer will provide certain information from time to time to Globacap as requested by Globacap. The Customer undertakes to provide such information when requested. Customer represents and warrants to Globacap that any information provided by it or on its behalf (including by a User or relating to its Securities or Stakeholders) to Globacap from time to time is true, complete, accurate and not misleading and agrees that it is solely responsible for the accuracy of such information.

4.2 Globacap is not an advisory firm and does not provide any advice as part of its Services. The Customer acknowledges that Globacap is not acting in any advisory capacity and is not providing any advice (including legal, tax, regulatory, accounting, financial, or other advice) or assurance to the Customer.

4.3 The Customer is solely responsible for its own compliance with, and undertakes and represents that it will comply in full at all times with:

- (a) any Corporate Requirements; and
- (b) any Filings; and/or
- (c) any applicable laws

to which it, its affiliates, or its or their activities are subject, and represents and warrants to Globacap on a continuing basis that it is in full compliance therewith.

4.4 In respect of any certificates relating to or evidencing ownership any security issued by the Customer or issued through the Platform, the Customer acknowledges that any such certificates issued by the Customer through or utilising the Platform or in connection with any Services will be issued by the Customer and executed by the Customer, including be utilising an electronic seal of the Customer, and the Customer represents and warrants that those certificates will be validly executed and issued by it. The Customer ratifies any certificate so issued through or utilising the Platform.

4.5 The Customer undertakes to take, and represents that it has taken, such independent professional advice (including legal, tax, regulatory, accounting, financial, or other advice) as it deems appropriate in connection with its business, activities, any Corporate Requirements, Filings, and Services.

## **5. Fees**

5.1 The Customer will pay such fees or other amounts owing to Globacap for Services, when due.

5.2 Fees for any Services will either be notified to you from time to time, set out in an Order Form (or the relevant Contract), or specified on our Website or the Platform.

5.3 For Cap Table Services fees are calculated and purchased as subscriptions on a fee per Stakeholder per month basis, and may be subject to specified minimums and maximums (fee caps and fee minimums), unless otherwise agreed in a Contract or Order Form. As such you acknowledge that an increase in your number of Stakeholders, for instance because you issue new shares, options, or other securities to new persons or add new Stakeholders in your Account, will increase your Fees accordingly.

5.4 The determination of the amount of fees due and payable as at any date, and/or the number of Stakeholders at any time, will be by Globacap in its sole discretion, acting in good faith. In the absence of manifest error Globacap's determination will be final.

5.5 We may by notice to you at any time amend (raise or lower) our Fees or any of our pricing or the basis of the pricing of any Services, by not less than one month's written notice. This may include imposing fees or new charges on services or functionality that was previously provided for free or as part of other Services or package, or introducing tiered pricing (or changing existing tiers) including in respect of any New Features or Enhancements, which may require you to upgrade or pay additional fees to access those New Features or Enhancements that are not included within your specified package.

## **6. Payment Terms**

6.1 Customer hereby authorises us, either directly or through our payment processing service providers, to charge Fees via Customer's selected payment method, upon due date. Fees are non-cancellable and non-refundable, in the absence of fraud or manifest error.

6.2 Any fees expressed or quoted by Globacap or its representatives from time to time are exclusive of any VAT or other taxes in any jurisdiction, unless otherwise expressly agreed in writing, and are payable in the currency in which they are expressed or invoiced. All amounts must be paid to Globacap free and clear, without any set-off, counterclaim, withholding or deduction.

6.3 You are responsible for providing complete and accurate billing and contact information to us and notifying us of any changes to such information.

6.4 Where Fees are paid via direct debit or charging to a payment card, or through our payment services providers, we are not responsible for any exchange rates or other amounts that you may be charged by your bank or card providers in connection with Fees or our charges.

6.5 If any amounts are not paid to it within 14 days of the due date, or if your specified payment method expires or a payment is refused, Globacap shall be entitled to:

(a) suspend or discontinue or restrict access to any or all Services (or areas of the Platform associated with Services); and/or

(b) charge interest at the rate of the Bank of England base rate (subject to a minimum of zero) + 4.00% per annum on any unpaid amounts from the date the payment became due until the date of receipt of such payment in full by Globacap; and/or

(c) treat non-payment as a Termination Event.

6.6 Globacap may deduct or set-off any invoiced and unpaid fees or other amounts due and payable to it by the Customer from any amounts payable by Globacap to the Customer (including any amounts held as client money for the Customer), whether or not arising under the same agreement, matured or contingent, and irrespective of the currency, place of payment, or booking. In addition, Globacap may make any deductions or withholdings from any payments made to or on behalf of the Customer where required by applicable laws (including in respect of taxes).

6.7 In connection with any deductions or set-off, (i) where amounts are denominated in different currencies, or for the purposes of any cross-currency deductions or set-off, we may make such conversions at such independent market rates as we determine in good faith, and (ii) if an amount is un-ascertained we may estimate that amount and

set off in respect of the estimate, subject to the relevant party accounting to the other when the amount is ascertained.

## **7. Content**

7.1 "Content" means any information, data, text, images, documents or any other content submitted or generated by the Customer, any User, or any representative or stakeholder of the Customer to Globacap, the Platform or through or in connection with the Services, or processed by Globacap on behalf of any of the foregoing including through any messaging functionality of the Platform, including the contents of any security registers, Filings, corporate registers or statutory registers.

7.2 Customer represents, warrants and undertakes on behalf of itself or its Users that it:

- (a) is solely responsible for the content of any Content, regardless of the form of such Content;
- (b) will only submit Content for which it has full rights and authority to submit including in full compliance with any licensing, copyright, intellectual property rights or Data Protection Laws relating to that Content; and
- (c) will not upload any Content that is, and any Content will not contain any, data or information that is protected under special legislation and requires special treatment including without limitation categories of data contained in Article 9(1) of GDPR as enacted in any jurisdiction.

7.3 Customer undertakes, represents and warrants to Globacap that it or as relevant any User has obtained all rights, authorisations and/or consents in the Content necessary to allow it to submit, acquire and use the relevant Content and submit that Content to Globacap or onto the Platform. This includes without limitation any consents or authorities in connection with any Data Protection Laws.

7.4 Customer retains all right, title, interest and control, in and to the Content, in the form submitted to the Services, subject to this clause.

7.5 Customer grants to Globacap and each of its affiliates a royalty free, non-exclusive, worldwide right to use, host, store, reproduce, modify, adapt, transmit, communicate, publish, publish or display (including publicly), distribute the Content, and to create derivative works of the Content, without attribution for the purposes of operating, providing, supporting, improving, or developing the Services including developing any New Features. This clause and the rights in it will survive any termination of this agreement, the Terms, or the relationship between Globacap and the Customer for any reason.

7.6 Other than mandatory requirements of Data Protection Laws, Globacap has no liability whatsoever relating to Content. Globacap does not review, approve, endorse or agree to any Content, and is not responsible for any public display or misuse of Content by Customer or Users.

7.7 Globacap has the right at any time to refuse, block, suspend or remove any Content that it determines (in its discretion) either (i) violates its terms and conditions, any of Globacap's policies, or (ii) is in breach of any applicable contractual obligations or applicable laws, or (iii) would or might reasonably be expected to be threatening to or cause offence to any person or group regardless of intent, or (iv) is in any way discriminatory, defamatory, obscene or offensive.

## **8. Privacy and Data Protection**

8.1 Our Privacy Policy available at <https://globacap.com/privacy-policy> sets out how we may collect and process personal information, including any personal data relating to the Customer or connected with the Services. Customer acknowledges and agrees to Globacap's Privacy Policy.

8.2 In respect of any personal data that the Customer or its Users provide to Globacap the Customer is the data controller, and Globacap is a data processor. Each Party undertakes to comply with all applicable requirements of Data Protection Laws applicable to it relating to that personal data.

8.3 Customer, in its use of the Services, and instructions to Globacap, shall comply with Data Protection Laws. Customer shall establish and have any and all (a) required legal bases in order to collect, process and transfer to Globacap any personal data, and to authorise the processing by Globacap, and for Globacap's processing activities, and (b) necessary and appropriate consents and notices in place to enable lawful transfer of any personal data to Globacap and/or lawful collection of any personal data by Globacap on behalf of the Customer or in connection with any Services for the duration and purposes of these Terms or any Contract.

8.4 If and to the extent that Globacap is a data processor in respect of any personal data to which the Customer is the data controller, the Customer consents to Globacap appointing one or more third party data processors in respect of any such personal data in line with its procedures in place from time to time to the extent permitted by Data Protection Laws.

8.5 We may access Customer data or those of Customer's representatives or stakeholders in order to conduct audits, perform maintenance, or maintain the security of the Services and information contained in it, subject always to our obligations under applicable laws.

8.6 Personal data may be transferred to other EU member states, the three EEA member countries (Norway, Liechtenstein and Iceland) and the United Kingdom (collectively "EEA"). Personal data may also be transferred from the EEA to countries that offer adequate level of data protection under or pursuant to the adequacy decisions published by the relevant data protection authorities of the EEA, the European Union, the EU member states or the European Commission ("Adequacy Decisions"), without any further safeguard being necessary.

8.7 If the processing of personal data includes transfers (either directly or via onward transfer) from the EEA to countries which have not been subject to an Adequacy Decision ("Other Countries") and such transfer or disclosure is not permitted through alternative means approved by the European Commission (e.g., the EU-US Privacy Shield) or by applicable Data Protection Laws, Globacap will take all reasonable steps to ensure that personal data is treated securely and in accordance with applicable Data Protection Laws.

8.8 In these Terms or any Contract "personal data", "data controller", "data provider", "processor", and "processing" have the meaning given to those terms in the GDPR.

8.9 The Customer agrees that Globacap may collect, compile and use data relating to the Customer or connected with any Services to compile, use and disclose anonymous, aggregated statistics or information (including but not limited to Anonymous Information), which will be owned solely by Globacap, provided that no such information will directly identify Customer or Customer's representatives, stakeholders or users. This paragraph will be subject to all applicable Data Protection Laws where applicable.

## **9. Anonymous Information**

9.1 Notwithstanding any other provision of these Terms, we may collect, use and publish Anonymous Information (defined below) relating any use of any Services and/or the Platform, and any customers, clients, users or stakeholders, and utilise or disclose it for the purpose of providing, improving, marketing and publicising our products and services, including our brand and our Platform and Services, and for other business purposes from time to time.

9.2 "Anonymous Information" means information or data which does not enable identification of any individual or specific entity, such as aggregated data or information, analytics data or other data, information, or statistics.

9.3 Globacap owns all Anonymous Information collected, obtained, produced or derived by Globacap. Anonymous Information does not constitute "Content" (even if derived from Content) and will not be treated as the Customer's confidential information.

## **10. Confidentiality; Permitted Disclosures**

10.1 If Party receives a request or is required to disclose any information including any confidential information relating to the other Party pursuant to or in connection with any applicable law, court, arbitration or similar process, legal requirement, or any request or requirement of any regulatory, self-regulatory, administrative, governmental or taxation body or authority (each such request or requirement, a "Disclosure Request"), that Party is permitted to disclose such information to the extent necessary to comply with the Disclosure Request or as otherwise required by law.

10.2 Unless you specifically instruct us otherwise, we may publish (on our website, in marketing materials, or otherwise) or disclose the fact that you are a customer to whom we provide Services, including utilising your name and logo or branding for such purposes (and you grant us and our affiliates a royalty free, non-exclusive, non-transferable worldwide licence to use your name and logo or branding for such purposes). In connection therewith we may describe you as a user, partner, client, customer, or similar.

10.3 Unless otherwise explicitly agreed, any confidentiality obligation binding on us, or any non-disclosure agreement between the Parties from time to time, will be subject to the terms of this paragraph.

## **11. Intellectual Property**

11.1 Globacap owns all Intellectual Property Rights and any other rights, title and interest to and in any Globacap Intellectual Property and/or any Anonymous Information. Nothing herein or in any Contract or relating to any Services grants Customer or any of its representatives, users or stakeholders any ownership rights or interest to or in any Globacap Intellectual Property.

11.2 From time to time we may work on or develop one or more Enhancements or New Features which may include new features, improvements, new products, new services, and so forth. These Enhancements may developed

due to or based on any feature requests, enhancement requests, suggestions or feedback from, or any discussions, meetings or collaborations with, or any features required by, our customers, partners, or potential customers (which may include the Customer, their Users, representatives, or any other person), and may incorporate any data collected, obtained, or otherwise derived from our Website (including cookies or other trackers), Platform, any Content or Anonymous Information. Enhancements and New Features will form part of Globacap Intellectual Property and Customer agrees (for itself and on behalf of each of its Users) that all Intellectual Property Rights relating thereto will be solely owned by Globacap, and Customer on behalf of itself and its or its affiliates Users, representatives and/or Stakeholders waives any rights it may otherwise have had to any Intellectual Property Rights or moral rights relating to any Enhancements or New Features.

11.3 If and to the extent that Customer or any of its Users has at any time any rights or interest in any Globacap Intellectual Property (including any Enhancements or New Features), then Customer irrevocably and unconditionally waives on behalf of itself and its Users any such rights or interests and assigns absolutely (including by way of present assignment of future rights) with full title guarantee all such rights and interest including any Intellectual Property Rights therein or thereto, and will do (and undertakes to procure that it and its Users or representatives do) all such acts and things necessary to vest such rights and interest in or to Globacap.

## 12. Liability

12.1 **FORCE MAJEURE**: WE WILL NOT BE LIABLE FOR ANY LOSSES, LIABILITIES, COSTS OR EXPENSES AS A RESULT OF OR IN CONNECTION WITH ANY FAILURE, INTERRUPTION OR DELAY IN PERFORMANCE OF ANY OF OUR OBLIGATIONS RESULTING FROM ACTS, EVENTS OR CIRCUMSTANCES NOT REASONABLY IN OUR CONTROL, INCLUDING BUT NOT LIMITED TO ACTS OF WAR OR TERRORISM, ACTS OF GOD, INDUSTRIAL DISPUTES, ACTS OR REGULATIONS OF ANY GOVERNMENTAL OR SUPRANATIONAL BODIES OR AUTHORITIES, BREAKDOWN, FAILURE OR MALFUNCTION OF ANY TELECOMMUNICATIONS, ELECTRONIC OR COMPUTER SERVICES, NETWORKS, BLOCKCHAIN SYSTEM (OR THE OPERATION, WORKINGS, OMISSIONS, CODE ERRORS, GOVERNANCE, FLAWS OF OR FORKS IN ANY BLOCKCHAIN SYSTEM, OR ANY SMART CONTRACT CONNECTED WITH SUCH BLOCKCHAIN SYSTEM), PLATFORMS AND SYSTEMS, OR THE FAILURE BY ANY RELEVANT INTERMEDIATE BROKER OR AGENT, ANY BLOCKCHAIN SYSTEM, AGENT OR PRINCIPAL OF OURSELVES, CUSTODIAN, SUB-CUSTODIAN, DEALER, EXCHANGE, CLEARING HOUSE OR REGULATORY OR SELF-REGULATORY ORGANISATION, FOR ANY REASON, TO PERFORM ITS OBLIGATIONS, THE APPLICATION OF ANY LAW, RULE OR REGULATION, CHANGES IN LAW, RULE OR REGULATION, OR ANY INTERPRETATION OR CHANGE IN INTERPRETATION OF RELEVANT LAWS, RULES OR REGULATIONS, AND/OR ANY DELAYS OR FAILURE BY ANY THIRD PARTY PROVIDER TO COMPLY WITH THEIR OBLIGATIONS. THE MATTERS REFERRED TO IN THIS CLAUSE ARE COLLECTIVELY REFERRED TO AS "FORCE MAJEURE".

12.2 **LIMITATION**: OTHER THAN WHERE DIRECTLY CAUSED BY OUR WILFUL MISCONDUCT, OR FRAUD, GLOBACAP IS NOT LIABLE FOR ANY LOSSES OR LIABILITIES SUFFERED OR INCURRED BY THE CUSTOMER OR ANY PERSON FROM TIME TO TIME ARISING FROM OR IN CONNECTION WITH ANY SERVICES. IN ANY EVENT, GLOBACAP'S TOTAL LIABILITY TO THE CUSTOMER, HOWSOEVER ARISING, FOR ALL CLAIMS IN AGGREGATE IN CONNECTION WITH ANY SERVICES OR THESE TERMS SHALL BE LIMITED TO THE AGGREGATE FEES RECEIVED BY GLOBACAP FROM THE CUSTOMER IN RESPECT OF THE SERVICES IN THE PRECEDING TWELVE MONTHS. GLOBACAP WILL HAVE NO LIABILITY IN CONNECTION WITH ANY DOWNTIME OR PERIOD IN WHICH ANY SERVICES ARE UNAVAILABLE, OR IN CONNECTION WITH ANY INDIRECT OR CONSEQUENTIAL OR SPECIAL LOSS, OR ANY LOSS OF PROFITS OR LOSS OR DAMAGE TO REPUTATION OR GOODWILL, HOWSOEVER ARISING. GLOBACAP WILL HAVE NO LIABILITIES FOR ANY ACTIONS OF ANY USER OR ANY ADMIN OF THE CUSTOMER, OR IN CONNECTION WITH ANY BREACH OR FAILURE BY THE CUSTOMER IN CONNECTION WITH ANY CORPORATE REQUIREMENTS, FILINGS, OR APPLICABLE LAWS TO WHICH IT, ITS AFFILIATES, OR ITS OR THEIR ACTIVITIES ARE SUBJECT.

12.3 **INDEMNITY**: OTHER THAN TO THE EXTENT CAUSED BY GLOBACAP'S WILFUL MISCONDUCT OR FRAUD, CUSTOMER WILL INDEMNIFY GLOBACAP AND ITS AFFILIATES ON DEMAND AGAINST ANY LIABILITIES WHICH GLOBACAP OR ITS AFFILIATES MAY INCUR OR SUFFER OR OTHERWISE BE OR BECOME LIABLE IN CONNECTION WITH ANY SERVICES OR THESE TERMS, INCLUDING DUE TO ANY BREACH BY THE CUSTOMER OF ANY OF ITS OBLIGATIONS, REPRESENTATIONS, OR ANY APPLICABLE LAWS, OR DUE TO ANY REPRESENTATION, WARRANTY, OR OTHER INFORMATION PROVIDED BY THE COMPANY TO GLOBACAP NOT BEING TRUE, COMPLETE AND ACCURATE.

12.4 **AS-IS BASIS**: THE PLATFORM AND ANY SERVICES ARE OFFERED AND PROVIDED ON AN "AS-IS" AND "AS AVAILABLE" BASIS AND WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESSED OR IMPLIED. TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAWS, GLOBACAP MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY REPRESENTATIONS AND WARRANTIES OF COMPLETENESS, MERCHANTABILITY, TIMELINESS, FITNESS FOR A PARTICULAR PURPOSE,

FREEDOM FROM ANY COMPUTER VIRUS / HARMFUL COMPONENT OR NON-INFRINGEMENT, WITH RESPECT TO THE USE OF THE SERVICES OR THE PLATFORM. IN NO EVENT WILL GLOBACAP OR ITS REPRESENTATIVES BE LIABLE FOR ANY LIABILITIES OF ANY KIND WHATSOEVER RESULTING TO YOU OR TO ANY THIRD PARTY DIRECTLY OR INDIRECTLY FROM ANY DOWNTIME OR ANY USE OF OR DEFECT IN THE PLATFORM OR ANY SERVICES OR ANY INFORMATION CONTAINED ON THE PLATFORM OR ANY UNAVAILABILITY OR MALFUNCTION OF THE PLATFORM OR THE SERVICES. YOU ACKNOWLEDGE THAT IN ENTERING INTO THESE TERMS OR ANY SERVICES YOU ARE NOT RELYING ON (AND GLOBACAP WILL NOT HAVE ANY LIABILITY FOR) ANY PRE-CONTRACTUAL STATEMENT.

12.5 ***Fraud etc.***: Nothing in these Terms or any Contract limits or excludes any liability for fraud or fraudulent misrepresentation or any other liability which cannot be limited or excluded by law. Any limitation or exclusion of liability will be construed accordingly.

12.6 ***Discretion***: Globacap is not obliged to do or omit to do anything if it would or might, in its reasonable opinion, constitute a breach of any applicable laws or a breach of any duty or obligation which it owes to any other person, and will not be liable for any liabilities occurring as a result.

12.7 ***Downtime***: From time to time, your access and use of the Services may be unavailable due to scheduled downtime, planned system updates or maintenance. In addition we may temporarily suspend any access and use of the Service without prior notice, generally or specifically, to maintain the security or integrity of the Services, any information or any Content, or where we are required to do so by any applicable laws, rules or regulations. Unavailability or downtime may also be caused by circumstances beyond our reasonable control, including, force majeure, Internet service provider failure or delay, or denial of service attack.

### 13. General Provisions

13.1 ***Globacap Platform***: Access to and use of the Globacap website or the Globacap Platform (including any management console or user portals forming part of the Globacap website or platform), and Globacap's obligations or duties in connection therewith, is subject in addition to the Globacap Terms and Conditions available at <https://globacap.com/terms-and-conditions/> or otherwise on the Globacap website, and the Customer and each User agrees to such Terms and Conditions.

13.2 ***New Features***: We may, from time to time, develop or offer certain enhancements, additional modules, services or functionality, including Enhancements (collectively "**New Features**"). These may be automatically included within the Services that we provide, or we may choose to offer those New Features to you under a separate package or subscription, or under separate terms and conditions. New Features may be charged at or subject to additional fees, or may result in additional tiers or tiered pricing, in addition to any fees specified in any Contract or for any existing Services.

13.3 ***Reverse engineering***: Customer undertakes that it will not modify, make derivative works of, disassemble, reverse compile, reverse engineer, or subvert the intrinsic security, integrity, or performance of any part of the Platform, Website, or Services for any purpose, or copy, access or use any features, functions, branding, visual design elements, concepts or graphics of any part of the Platform, Website, or Services for any purpose other than its own or its representatives access to and use of the Services.

13.4 ***Logo/Branding***: Customer will not use or reference the logo or branding or name of Globacap for any purpose or on any site, publication, press-release, or other information, without Globacap's prior written consent (such consent may include conditions on use and may be withdrawn at any time).

13.5 ***Communications to clients***: Any Users and/or Stakeholders will, if onboarded to the Globacap Platform, be clients of Globacap. Globacap reserves the right to communicate directly with any of its clients (including such persons) and such communication may include promotional and marketing materials, subject in each case to applicable laws. Any confidentiality obligations between the parties will be subject to this paragraph.

13.6 ***Authority***: Globacap may be engaged or instructed to provide any Services or change the provision of any Services (including changing any package or pricing structure) electronically including through Globacap's website or Platform or through a communication from Customer or any of its Users to Globacap (whether via the Platform or any Service, orally, or in writing including by email). Any such instruction or change will be binding and enforceable against the Customer, and any User or other person having access to the Customer's account on the Globacap platform or giving instructions or communications to Globacap is deemed to have full right, power and authority to bind the Customer including with respect to the instructing and acceptance of Services, and incurring of fees.

13.7 ***Survival***: These Terms will survive any termination by the Customer of any associated Contract into which they are incorporated. Any termination of a Contract will be without prejudice to the accrued rights and obligations of the parties in respect thereof.



13.8 **No partnership:** Nothing in these Terms or any Contract will be construed as creating any partnership, joint venture, or other form of joint enterprise between Globacap and the Customer.

13.9 **No Assignment:** A party may not assign or transfer any of its rights and obligations under these Terms or any Contract without the prior written consent of the other party, save that Globacap may transfer its rights and obligations to one of its affiliates by notice to the Customer as part of any corporate restructuring.

13.10 **Waiver:** Any waiver of any rights under these Terms or any Contract may only be in writing. Any failure or delay in exercising any right does not operate as a waiver of that right or any other rights or remedies. A single or partial exercise of a right or remedy does not prevent further exercise of that right or remedy or the exercise of another right or remedy. The rights and remedies set out herein are cumulative and not exclusive of those provided by applicable laws.

13.11 **Severance:** If any provision or part-provision of these Terms or any Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision shall not affect the validity and enforceability of the rest of this Agreement.

13.12 **Counterparts:** Any Contract, Order Form, or other agreement between you and us connected with these Terms may be executed in counterparts (which may include electronic or scanned counterparts, or an exchange of signatures through any electronic signature methodology), each of which shall be an original, and which together shall constitute one and the same agreement.

13.13 **Complaints:** Our complaints procedure is set out in the Terms and Conditions.

#### **14. Non-Solicitation**

14.1 During the engagement of Globacap to provide Services, and for a period of 12 months after the termination of any Service Agreement in place with Globacap, the Customer shall not in any way, directly or indirectly through an Affiliate employ any Globacap personnel who have been engaged in the provision of Services for the Customer, without Globacap's prior written consent.

14.2 If the Customer breaches this clause the Customer shall, without prejudice to any other rights or remedies of Globacap, pay to Globacap on demand a sum equal to one year's basic salary or the annual fee that was payable by Globacap to that employee, worker or independent contractor plus any recruitment costs incurred by Globacap in replacing such person.

#### **15. Globacap Status**

15.1 Globacap Limited (trading as and referred to herein as Globacap) is a company incorporated in England & Wales under company number 11046987, with its registered office at 322 High Holborn, London, WC1V 7PB. References to "we", "our" or "us" in these Terms or a Contract is to Globacap unless otherwise expressly stated.

15.2 Globacap Limited is authorised and regulated by the UK Financial Conduct Authority (No. 811661). Details about the nature and extent of Globacap Limited's regulatory permissions is publicly available on the FCA Register.

15.3 In addition to any of its regulated activities, Globacap may provide certain services or undertake certain activities from time to time, which may include certain Services, which are unregulated services.

15.4 Any unregulated services carried out by Globacap (which may include any Services) are not carried out by Globacap in its capacity as an FCA authorised person, and nothing in these Terms or any Contract (or the Website or the Platform) infers or implies that unregulated services are carried out by Globacap in its capacity as an FCA authorised person, or that such unregulated Services will be subject to or covered by the FCA Rules or otherwise regulated by the FCA.

#### **16. Client Money & Client Assets**

16.1 Where we receive or hold client money or client assets in connection with our Services, or in other situations where we are required to provide client money or client asset protections in accordance with the FCA Rules, the provisions of Annex 1 will apply and are deemed incorporated into these Terms. You acknowledge the terms and disclosures in Annex 1.

16.2 Unless mandatorily required by law, we will only provide you with custody services in respect of securities or other non-cash assets under a separate Contract relating to custody services (a custody agreement or similar) and custody services will be subject to those separate Contract(s).

## **17. Notices; Electronic communications and agreements**

17.1 Any notice to Customer under or in connection with these Terms or any Service or Contract may be given to the Customer either: via email or other electronic communication, via any messaging functionality available on the Platform or through any Service, via posting on the Website, or via post, courier, or by hand delivery to the registered office of the Customer or other physical address details which you have provided to us. Notices will be effective on the earlier of (i) receipt, and (ii) 24 hours following delivery (and notices will be considered "delivered" when validly sent or posted, as applicable).

17.2 Any notice to Globacap under or in connection with these Terms or any Service or Contract may be given to Globacap only by email to [notices@globacap.com](mailto:notices@globacap.com). Notices to Globacap will be effective 24 hours following delivery (and notices will be considered "delivered" when validly sent).

17.3 You acknowledge that an electronic communication notification, either via email, electronic messaging, posting to a website, or other electronic communication or notification, including a document sent via a link sent or included in an electronic communication, satisfies any applicable legal notification requirements, and that any such communication or notification to you will be deemed to be in writing for all purposes. A communication given or sent to any User (or Admin) of the Customer will be deemed to be a valid communication and notice to the Customer.

17.4 Subject to applicable law and without limitation to any other form of agreement or acceptance, these Terms, any Contract, any Order Form or other document connected with these Terms or any Service may be executed electronically including by (i) clicking on a button evidencing or indicating agreement or acceptance or checking a checkbox for agreement or acceptance, (ii) by electronic signature (including any software or protocol or other electronic method of evidencing signature or agreement), (iii) email agreement from any User or other authorised signatory or person having ostensible authority to bind the Customer, in each case without limitation. The parties agree that any document or agreement agreed in such manner will be a legally valid agreement enforceable against the Customer in accordance with its terms, and that any such agreement or execution methodology is valid and will constitute due execution.

17.5 The Customer on behalf of itself and its Users agrees to receive documents, notices, agreements and communications electronically including as links, including links sent through the Platform, by email, or by other electronic communication.

## **18. Amendments**

18.1 Globacap may amend these Terms at any time by notice to Customer. We will notify you of material changes electronically in any manner set out in paragraph 17, including electronically either by posting an updated version of these Terms on our Website or Platform, or by sending a soft copy via email or emailed link to the revised Terms provided by means of our Website or our Platform.

18.2 Any such amendments will become effective after 14 calendar days from the date on which those amended terms are either (i) published on the Website, or (ii) sent to you or notified to you, whichever is earlier, unless a shorter notice period is required or is appropriate in the circumstances (including if the changes are to your benefit or are required by applicable laws) in which case they may be applied with immediate effect. You are deemed to accept such amendments from the date on which they come into effect, or on the date on which you click on any link or sign into your account on the Platform or accept Services from us after the notification date, whichever is sooner.

18.3 A communication from you that purports to amend, supplement or reject these Terms or other Contract will only take effect with our written agreement signed by our authorised signatory.

## **19. Termination**

19.1 Unless otherwise specified in a Contract, either Party may terminate a Contract or any Services with 30 days notice at any time (provided that where Services are specified to be subject to a minimum term, the Customer may only terminate Services at the end of the relevant minimum term).

19.2 If a Termination Event has occurred with respect to a Party, the other Party may terminate any Service, these Terms and/or any Contract immediately by notice.

19.3 Any termination of a Service or any Contract, for whatever reason, will be without prejudice to any rights or remedies of Globacap under or in connection therewith and will not affect any accrued rights of Globacap or liabilities of the Customer at the date of termination or due to be observed or performed by the Customer thereafter, including without limitation the Customer's obligation to pay any accrued fees, and specified minimum fee or minimum term.

19.4 Where Globacap provided Cap Table Services to the Customer prior to termination, within thirty (30) days of termination of this Agreement, upon Customer's request, provided Customer is not in breach of the Agreement including but not limited to payment obligations, Globacap will make available to Customer the securities register or

other data relating to the Customer's securities then in its possession. Customer agrees and acknowledges that, thirty (30) days following the effective termination date of this Agreement or if Customer's account is thirty (30) days or more past due, we will have no obligation to maintain or produce any data and may, in our sole discretion, delete or destroy all copies of any relevant data in our possession or control, unless legally prohibited.

## 20. Definitions and Interpretations

In these Terms or in any Contract:

**"affiliate"** includes, in relation to any corporate entity, any other entity that is part of the same corporate group as such entity.

**"applicable law"** includes in respect of any person or any thing, all laws, rules and regulations howsoever applying to that person or that thing, including the FCA Rules.

**"Cap Table Services"** means the cap table management, securities administration and digital registrar services provided through the Platform, including through the Globacap management console, and including services relating to cap-table management, registry management, stakeholder management, shareholder communications and corporate actions.

**"Content"** has the meaning given in paragraph 7 of these Terms.

**"Contract"** means any agreement relating to any Services between the Customer and Globacap or any of its affiliates (including any services agreement, or any terms or agreement entered into electronically including via any website, including any online order form or in-Platform screens), including without limitation any contract or agreement for the provision of any services by Globacap to the Customer or persons for whom the Customer acts.

**"Corporate Requirements"** means in respect of a person, any contractual or corporate requirements or restrictions to which it is subject, including in its articles of association (or other constitutional documentation) or any shareholders agreements or other undertakings, including any authorisations or permissions it may be required to obtain.

**"Data Protection Laws"** means (i) all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation (EU 2016/679) ("**GDPR**"), the Data Protection Act 2018, the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended, and (ii) any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications).

**"distribution"** means any dividend, coupon, interest, or other payment (in cash or non-cash form) under a security or debt (or similar instrument) by the obligor or borrower thereof to the holder, lender or beneficial owner thereof, in each case howsoever described.

**"Enhancements"** means any developments, improvements, advances, additional functionality or services (including any documents, technology, materials, designs, specifications, software (including any code, scripts, and patches), workarounds, source code, use, know-how or other intellectual property) developed relating to or connected with the Services, the Platform or the Website, wherever and howsoever generated, including any developments related to or utilising any Content or based on any feature requests, enhancement requests, suggestions or feedback from, or any discussions, meetings or collaborations with, or any features required by, the Customer, their representatives, or any other person.

**"FCA Rules"** means the rules and guidance in the FCA Handbook (as amended from time to time).

**"FCA"** means the United Kingdom Financial Conduct Authority, or its successors.

**"Filings"** means in respect of any person, activity or event, any filing requirements connected therewith including without limitation any filings with companies house or its equivalent registrar of companies or similar, any filings with any regulatory body or authority, any filings with any taxation authority in any jurisdiction, any forms, filings or requirements of any regulatory authority in any jurisdiction or any filings required in connection with any exemption or safe-harbour, or any similar filings or requirements howsoever described.

**"Globacap Intellectual Property"** means any Intellectual Property Rights relating to the Platform, the Website or related to any Services, including any know-how, documentation, concept, features, procedure or process relating to any Service, and including any New Features or Enhancements from time to time.

**"Globacap Platform"** or **"Platform"** means Globacap's technology platform, including the web-based interface available to the Customer and investors for Globacap's services.

"**Go Live Date**" means in respect of any Services the date on which the relevant Service is 'live' being (i) in the case of Cap Table Services, the first date on which the Customer or the first of the Customer's Users is granted access to the Platform and is able to access the relevant Cap Table Services or the management console on the Platform, (ii) in the case of Issuance Platform Services, the first date on which the relevant Issuance is open for investment from any persons, or (iii) otherwise as determined by Globacap in good faith.

"**including**" means including without limitation.

"**information**" includes any data or information, including without limitation text, records, registry information, images, photographs, graphics, and other materials which may include personal data.

"**Intellectual Property Rights**" means patents, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, 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. "**Intellectual Property**" will be construed accordingly.

"**Issuance**" means in connection with any Issuance Platform Services, the relevant capital raising, tokenisation or issuance of securities or other assets.

"**Issuance Platform Services**" means any Services relating to the Globacap capital raising and securities issuance or digitisation (tokenisation) platform, including any securities offered through the Platform or issuance or investments through the Platform.

"**liabilities**" includes liabilities, losses, damages, penalties, fees, costs, expenses and disbursements of any kind or nature whatsoever (including legal and professional fees); "**liability**" is interpreted accordingly.

"**Onboarding / AML Requirements**" means and onboarding, know-your-customer (KYC), anti-money-laundering (AML) or similar checks or requirements (including any due diligence or enhanced due diligence) of Globacap or its affiliates from time to time, and includes any internal compliance or policy requirements of Globacap or its affiliates from time to time designed to achieve compliance with all applicable laws to which it or its activities are subject.

"**Order Form**" will include any web-based sign-up process via our website or the Platform, a quote or other form of order form or similar document sent to you via email (including via our customer relationship management software or another third party software of application that we may use from time to time), an electronic form or in-product screen, any other electronic or physical delivery mechanism, or any form of written or electronic agreement, document or instrument.

"**Party**" means either Globacap or Customer, and "**Parties**" means both of them.

"**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium, partnership or other entity (whether or not having separate legal personality).

"**Privacy Policy**" means Globacap's privacy policy in force from time to time available on our website at <https://globacap.com/privacy-policy/> as updated from time to time.

"**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation; a "**rule**" includes any listing rules, transparency rules, or any other rules.

"**Security**" means for the purposes of this Agreement any security or financial instrument issued by an Issuer, including without limitation any share, bond, option, convertible (including any instrument or security that is convertible into or deliverable by any other Security), warrant, debenture, or any similar instrument.

"**submit**" in relation to any data (including Content) relating to Services or the Platform includes to feature, display, upload, create, post, link to, transfer, submit, send, or otherwise transmit that data while or through using the Services to the Platform or otherwise; "**submission**" in relation to any such data will be construed accordingly.

"**Stakeholder**" has the meaning given in paragraph 3 of these Terms.

It will be a "**Termination Event**" with respect to a Party if (i) that Party is in material breach of its obligations under these Terms or a Contract and such breach has not been cured within 14 days of written notice from the other Party, (ii) in the case of the Customer any amounts due and payable to Globacap have not been settled in full within 14 days of the due date thereof, (iii) if any insolvency, bankruptcy, liquidation, administration or similar event or process

occurs or is initiated in respect of that Party or that party is deemed to be insolvent, bankrupt, or any analogous concept in any jurisdiction, (iv) any bankruptcy or insolvency official, receiver, administrator, administrative receiver, or any similar officer is appointed in respect of that Party in any jurisdiction.

"**Terms and Conditions**" means means Globacap's terms and conditions in force from time to time available on our website at <https://globacap.com/terms-conditions/> as updated from time to time

"**Users**" has the meaning given in paragraph 3 of these Terms.

"**Website**" means Globacap's website available at Globacap.com including the services, documents, information available on the Website, and including the Platform.

## **21. Governing law and Jurisdiction**

21.1 These Terms (and, unless otherwise explicitly stated in a Contract, any Contract) and any non-contractual obligations arising out of or in connection with them will be governed by and construed in accordance with English law.

21.2 The courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim in connection with these Terms including non-contractual disputes or claims (and, unless otherwise explicitly stated in a Contract, any Contract).

21.3 Where Customer does not have a permanent place of business in England, Customer will appoint and keep appointed an agent for the service of process in England and notify Globacap of the identity and address for service of process in respect of the Customer and such agent. Such process agent will be deemed to be the process agent appointed as for the service of process in England in connection with any proceedings related to these Terms or any Contract.

Last updated February 2020

**ANNEX 1**  
**INFORMATION RELATING TO THE HOLDING OF ASSETS AND CLIENT MONEY**

**Cash**

Any cash received and accepted by us for a client will be held as client money under and for the purposes of the FCA Rules. Where Globacap holds any client money for you, we may hold client money in any manner permitted by the FCA Rules or other applicable laws.

Where Globacap places cash it holds for the client as client money with a third party, that cash will be held by the third party in an omnibus bank account for the client as well as Globacap's other clients whose cash forms part of that pool.

Unless otherwise provided for in separate documentation, we will not pay interest to you on any client money held by us on your behalf and any interest earned on client money held by us on your behalf will be retained by us.

**Securities**

Any shares, bonds, securities or other assets which received and accepted by us from you for custody would constitute a "security" as defined in the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, as amended, received and accepted by us from you for custody (a "security") held by Globacap as custodian will be held by Globacap as safe custody assets for the purposes of the FCA Rules, and may be held in any manner in which safe custody assets are permitted to be held under the FCA Rules.

**Unregulated Assets**

We may from time to time hold assets for you that are not (or which are not at the time) regulated in the UK or by the FCA or subject to the CASS Rules and which do not constitute "securities" or "cash" ("**Unregulated Assets**").

**Unregulated Assets will not be or held as 'safe custody assets' or 'client money' under and for the purposes of the FCA Rules. Any Unregulated Assets held by Globacap for you, and/or any services provided by Globacap relating to Unregulated Assets, will not be held by or carried out by Globacap for you as part of any regulated services or activities carried out or provided by Globacap.**

Unregulated Assets and any other unregulated assets held for you under this Agreement will be held solely on the basis of the contractual terms agreed with you under the relevant contract in place between you and Globacap relating thereto. Unregulated Assets or unregulated assets that may be held by Globacap for you from time to time will therefore not have the protections set out in the FCA Rules or CASS Rules for client money or client assets.

The laws and/or any customs, governing principals, norms or conventions that may be applicable to Unregulated Assets may be different to regulated assets such as securities or cash, and may be different to English law, the laws of your jurisdiction. Accordingly any rights you may have as a holder of the relevant Unregulated Assets may vary and be different to rights that you or such a holder of other types of asset or regulated financial asset. The legal and regulatory treatment of Unregulated Assets, and the laws, rules and regulations that apply to Unregulated Assets or its holding, may evolve over time. In the event of any default of Globacap or a third party Unregulated Assets may not be as well protected from claims made on behalf of creditors of Globacap or such third party. Globacap accepts no responsibility or liability for any liabilities associated with or otherwise connected with Unregulated Assets.

**Third parties and sub-custodians**

To the extent Globacap holds securities in custody for the client or holds the client's cash as client money in accordance with the FCA Rules, such securities or client money may be held by a third party appointed by Globacap, for instance a sub-custodian or one or more eligible banks.

The FCA Rules require Globacap to exercise due skill, care and diligence in the selection, appointment and periodic review of such third parties and of the arrangements for the holding and safekeeping of the securities or client money (as applicable). When appointing a third party, Globacap is required to take into account the expertise and market reputation of the third party and any legal requirements or market practices relating to the holding of the securities or client money (as applicable) that could adversely affect the client's rights, but we will not be responsible for any acts or omissions or the insolvency of any such third parties.

The acts, omissions, default or insolvency of a sub-custodian may result in the loss of your financial instruments and other losses. We will not be liable for any losses relating to any third parties or sub-custodians, other than in the case of our own fraud. Where securities are held by a nominee that is controlled by Globacap Limited, we will remain

responsible for the acts or omissions of such nominee company to the same extent as we would be liable for our own acts.

### **Registration; Nominee**

Legal title to securities held as safe custody assets for you may be registered or recorded in the name of a nominee. The nominee may be a wholly owned subsidiary of Globacap, or controlled by Globacap, its affiliates, a recognized investment exchange, or a third party with whom Globacap has deposited securities in accordance with this Agreement and applicable laws.

Where securities are subject to the law or market practice of a jurisdiction outside the UK, if Globacap believes it is in the client's best interests to do so, and it is not possible to register or record such securities in the name of the client or a nominee, it will register or record such securities in the name of a third party and, if this is not possible, in Globacap's name. As a consequence these securities may not be segregated from Globacap's own assets and in the event of Globacap's default these securities may not be as well protected from claims made on behalf of the general creditors of Globacap.

### **Overseas assets**

Where securities or client money are held overseas they may be subject to the law of a jurisdiction other than that of the UK or an EEA state and the client's rights relating to such securities or client money may differ accordingly. Settlement, legal and regulatory requirements and practices for the separate identification of money, securities or assets may differ from those applying in the UK. Where securities are subject to the law or market practice of a jurisdiction outside the UK, if Globacap believes it is in the client's best interest to do so, and it is not possible to register or record such securities in the name of the client or a nominee, it will register or record such securities in the name of a third party or if this is not possible then in the name of Globacap. As a consequence these securities may not be segregated from Globacap's or the third party's own securities and in the event of any default of Globacap or such third party those securities may not be as well protected from claims made on behalf of creditors of Globacap or such third party.

### **Shortfalls**

Where Globacap identifies (whether as a result of a reconciliation process or otherwise) that there is a discrepancy between (i) Globacap's records and accounts of cash or securities held for the client, and (ii) the number or amount of cash or securities (as applicable) actually held for the client (whether by Globacap or by a third party), and such discrepancy results in a shortfall, then Globacap will as soon as reasonably practicable (unless Globacap has determined that the shortfall was caused by a third party): (a) calculate the value of the shortfall in GBP using (where relevant) the exchange rate and/or valuation methodologies selected by it in good faith, (b) based on such valuation, appropriate an amount of its own cash or securities or a combination thereof to cover the value of the shortfall, and (c) hold such appropriated cash or securities (as the case may be) for the benefit of the client or in custody for the benefit of the client, in each case in accordance with the FCA Rules. The process in (a)-(c) in the preceding sentence will be repeated on a daily basis and segregation of client money or securities (as the case may be) will be reflected by Globacap in any statements that may be provided to the client. Once the shortfall has been eliminated or reduced, the amount of cash or securities held by Globacap as set out in this clause will be reduced accordingly.

### **Fungible assets**

We may, and you authorise us to, treat cash or securities or Unregulated Assets held for you from time to time of the same type, class and denomination as fungible, and you acknowledge that you will not have any rights to any specific assets but shall instead be entitled, subject to applicable laws and to this Agreement, to the relevant amount of equivalent assets, and Globacap's account maintained for you will record the amount of the relevant equivalent assets to which you are entitled; for these purposes "equivalent" or "equivalent to" in relation to any asset means assets or property of an identical type, class, nominal value, description and amount.

### **Omnibus accounts**

We, or any relevant third party, may hold your securities or other assets on a pooled basis in a general omnibus account. Where securities or other assets are held in an omnibus account with a third party, in the event that the third party becomes insolvent and/or there are insufficient assets in that account or a shortfall that cannot be reconciled, the client may not recover some or all of its assets. The manner in which a shortfall will be dealt with may vary in accordance with applicable laws, rules and regulations.

As a result of other clients, or a sub-custodian's clients, owning a particular asset held in an omnibus account, you may be exposed to settlement risks arising from the transactions of such other clients. Certain factors (including settlement cycles, settlement failures and the operation of third party systems) may from time to time result in us or

a sub-custodian using your assets for the purposes of settling a transaction of another customer and you hereby consents to such use.

### **Failure; Insolvency**

Where a third party bank, sub-custodian, depository or other entity appointed by Globacap to hold client money, securities or other assets becomes insolvent, we may only have an unsecured claim against the third party on your behalf and you will be exposed to the risk that the securities, cash or any other property received by us from the third party are insufficient to satisfy your claim and the claims of all other relevant clients. We will not be responsible for any shortfall in respect of any insolvency of a third party.

With respect to client money specifically, where a third party bank appointed by Globacap to hold client money fails or becomes insolvent, the amount of money in the relevant client bank accounts at the third party may be insufficient to satisfy the claims of all clients in respect of those accounts. This means that in the event of our failure, any shortfall in client money in such omnibus accounts would be borne by all clients rateably in accordance with their entitlements in respect of the client money held for clients on this basis. In such circumstances, you may not receive an amount equal to the individual sum owing to you.

### **Liens**

Globacap may have a security interest, lien or right of set off in respect of securities or client money held by Globacap for the client. The terms governing such security interest, lien or right of set-off will be contained in the Customer's contracts with Globacap.

We may grant security interests or liens over your financial instruments enabling a third party sub-custodian to dispose of your financial instruments in order to recover debts that relate to our clients or the provision of services to our clients, or otherwise where this is required by applicable law in a third country jurisdiction in which your financial instruments are held. Where your financial instruments are held in third country jurisdictions which require the grant of such security interests or liens there is a risk that, if we fail or are unable to make any payment due to a third party sub-custodian, your financial instruments could be applied to discharge our liability to the extent required by the relevant law.

Where we or a sub-custodian have appointed a central securities depository on your behalf to hold your financial instruments, the central securities depository may hold a security interest or lien over your financial instruments. Where your financial instruments are held in third country jurisdictions which require the grant of such security interests or liens there is a risk that, if we or a sub-custodian fail or are unable to make any payment due to a central securities depository, your financial instruments could be applied to discharge our or the sub-custodian's liability to the extent required by the relevant law.

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*This document and the terms, information and disclosures contained in it may be unilaterally updated, supplemented and/or amended by Globacap at any time by notice to you. Notice of any changes may be given by means of uploading the revised version to our website, or by any electronic communications methodology, and will take effect 14 days after notice or uploading of the revised version (or, where a shorter period is required by law, immediately).*