

Virgin Islands
Tortola

**Virtual Integrated Registry Regulatory General
Information Network ("VIRRGIN")**

USER AGREEMENT

THIS AGREEMENT is made the [] day of [],
2016 (the "Effective Date").

BETWEEN:

(1) FINANCIAL SERVICES COMMISSION a body corporate established by section 3 of the *Financial Services Commission Act, 2001* of Pasea Estate, P O Box 418, Road Town, Tortola, British Virgin Islands VG 1110 (the "Commission") and

(2) [] whose office is at [] (the "Subscriber")

1. LICENCE

The Commission grants to the Subscriber a non-exclusive, non-transferable, limited licence to access and use the Commission's **Virtual Integrated Registry Regulatory General Information Network** ("VIRRGIN") and the materials and content available through VIRRGIN (the "Materials") in accordance with the terms of this Agreement.

2. USE OF VIRRGIN and the MATERIALS

2.1 The Subscriber may use VIRRGIN to:

- i. access the Registers maintained by the Commission in accordance with the legislation listed in Schedule 1 of this Agreement (the "Legislation");
- ii. submit fees and payments due and payable to the Commission under the Legislation;

- iii. submit applications and obtain copies of documents, including certified copies of documents issued by the Commission;
- iv. make filings and submit transactions to the Commission in accordance with the Legislation; and
- v. access other services provided by the Commission via VIRRGIN from time to time and in every case such other services shall be subject to this Agreement.

2.2 The Subscriber shall not:

- i. permit any person other than the Subscriber and its employees vetted and authorised by the Commission ("**Authorised Users**") to access and use VIRRGIN and the Materials;
- ii. access or use or permit access to or the use of VIRRGIN and the Materials from outside the British Virgin Islands by any means, except as permitted by this agreement;
- iii. permit Authorised Users to use or share user ID's or passwords.
- iv. access or use VIRRGIN via mechanical, programmatic, robotic, scripted or any other automated means not provided as part of VIRRGIN;
- v. access or use VIRRGIN to, or otherwise, interfere with or disrupt VIRRGIN, servers or networks connected to VIRRGIN, or breach any requirements, procedures, policies or regulations of networks connected to VIRRGIN;
- vi. access or use VIRRGIN to, or otherwise, override or circumvent any of the usage rules embedded in VIRRGIN including, but not limited to, manipulating the system to gain access to information that the Subscriber or any Authorised User is not authorised to access;

- vii. print or download the Materials without using the printing or downloading commands of VIRRGIN or the Subscriber's web browser software;
- viii. access or use VIRRGIN for any purpose other than the purposes set out in this Agreement;
- ix. use any VIRRGIN user ID or password other than in accordance with this Agreement;
- x. access or use VIRRGIN to violate any law; or
- xi. access or use VIRRGIN in any way in breach of this Agreement.

3. FEES & PAYMENTS

3.1 The Subscriber shall pay an annual fee (the "Subscription Fee") to the Commission for the licence granted under this Agreement. The subscription fee is suspended until January 2017.

3.2 The Subscription Fee is due and payable on execution of this Agreement and is for a 1 year period which may be extended in accordance with Clause 4.

3.3 The Commission reserves the right to modify the Subscription Fee at any time.

4. TERM/TERMINATION

4.1 This Agreement shall commence on the Effective Date and shall continue for an initial period of one year and may be renewed annually at the sole discretion of the Commission. The Subscriber shall pay the Subscription Fee no later than 15th February each year subject to section 3.1.

4.2 The Subscriber may terminate this agreement at any time by giving the Commission at least 60 days written notice. The Subscriber agrees that if they terminate this agreement, they are not entitled to a refund of any fees paid under this Agreement.

4.3 The Commission may terminate this agreement at any time by giving at least 30 days notice to the Subscriber in which case the

Commission's only obligation shall be the pro rata refund of any fees paid in advance.

4.4 The Commission may also terminate this Agreement if the Subscriber commits any breach of any term of this Agreement and (in the case of a breach capable of being remedied) shall have failed, within 10 days after the receipt of a request in writing from the Commission to do so, to remedy the breach (such request to contain a warning of the Commission's intention to terminate).

4.5 If the Commission terminates this agreement under Clause 4.4, the Subscriber shall not be entitled to any refund of fees paid in advance.

4.6 The Commission may deactivate any Authorised User account that is inactive for more than sixty (60) days.

4.7 If this Agreement expires or is terminated, the Commission shall:

- (a) terminate the access of the Subscriber and all related Authorised Users access to VIRRGIN;
- (b) delete the user-names and passwords of the Subscriber and all related Authorised Users; and
- (c) take any other steps deemed necessary.

5. ACCESS TO SERVICES

5.1 To be considered by the Commission for access to VIRRGIN as an Authorised User, a person must be a natural person, have completed an application in the prescribed form and be any one of:

- i. an employee of a Subscriber that is in good standing with the Commission under all applicable laws from time to time including, but not limited to the Legislation; or
- ii. a legal practitioner qualified and entitled to practice in the British Virgin Islands under the provisions of the *Eastern Caribbean Supreme Court Act, Cap. 80* or any successor legislation; or

- iii. an insolvency practitioner holding a licence under, and in good standing pursuant to, section 476 of the Insolvency Act, 2003; or
- iv. an authorized and accepted subscriber of VIRRGIN Lite services.

5.2 Each Authorised User will be granted Administrator, Level I or Level II User Access rights.

5.3 An Administrator User shall be subject to the terms of this Agreement and shall have the following access:

- Level I and II access rights;
- Subscription module access
- Ability to submit user agreements on behalf of the Subscriber;
- Ability to make payments for; and
- Any other rights subsequently assigned

5.4 A Level I User shall be subject to the terms of this Agreement and shall have the following access;

- All level II access rights;
- Ability to make payments and submit transactions;
- Ability to replenish deposit service accounts; and
- Any other rights subsequently assigned

5.5 A Level II User shall be subject to the terms of this Agreement and shall have the following access;

- Ability to complete and save all online forms;
- Ability to view available reports;
- Ability to endorse relevant applications; and
- Any other rights subsequently assigned

5.6 After approval of an application and receipt of payment, the Commission will notify each Authorised User at the email address provided on the relevant application form of their VIRRGIN user ID and a single-use

password to enable the Authorised User to log in to VIRRGIN.

5.7 Any user ID or password issued by the Commission to an Authorised User is personal and confidential to the Authorised User and must not be shared or used to facilitate multiple use.

5.7 The Commission may, in its sole discretion, refuse an application to become an Authorised User.

6 GENERAL OBLIGATIONS

6.1 The Subscriber shall provide and is responsible for all equipment and software necessary to access VIRRGIN and the Materials including:

- i. a personal computer;
- ii. internet connection;
- iii. internet browser (with Multiple Language Support, if applicable);
- iv. Adobe Acrobat Reader 7.0 or later;
- v. document scanner; and
- vi. software to convert documents to PDF.

6.2 The Subscriber shall:

- (a) provide true, accurate, current and complete information ("Registration Data") on the relevant Application Forms in respect of itself and its employees; and
- (b) notify the Commission within seven (7) days of any changes to the Registration Data.

6.3 The Subscriber shall:

- (a) immediately notify the Commission of any unauthorized use of any password or account or any other breach of security affecting VIRRGIN and the Materials;
- (b) ensure that Authorised Users log out at the end of each session; and
- (c) notify the Commission when the employment of any Authorised User with the Subscriber is terminated.

7 REPRESENTATIONS AND WARRANTIES

VIRRGIN and the Materials are provided on an "as is", "as available" basis and the Commission makes no express warranties under this agreement, including without limitation that VIRRGIN and the Materials are or will be

complete or free from errors or that information will continue to be available to the Commission to enable it to keep VIRRGIN and the Materials up-to-date.

8. LIMITATION OF LIABILITY

8.1 In this clause, Covered Party" means (a) the Commission, its affiliates, and any officer, director, employee, subcontractor, agent, successor, or assign of the Commission or its affiliates; and (b) each third party supplier of Materials, their affiliates, and any officer, director, employee, subcontractor, agent, successor, or assign of any third party supplier of Materials or any of their affiliates.

8.2 No Covered Party shall be liable for any loss, injury, claim, liability, or damage of any kind resulting in any way from the use of VIRRGIN by the Subscriber or any Authorised User and the Materials including, but not limited to: (a) any errors in or omissions from VIRRGIN or the Materials available or not included in it, (b) the unavailability or interruption to the supply of VIRRGIN or any of its features or any of the Materials, (c) the use or misuse of VIRRGIN or the Materials (regardless of whether the Subscriber or Authorised User received any assistance from a Covered Party in using or misusing VIRRGIN), (d) the use of any equipment in connection with VIRRGIN, (e) the content of the Materials, (f) any delay or failure in performance beyond the reasonable control of a Covered Party, (g) any loss sustained by the suspension or termination of any user name or password in respect of VIRRGIN and the Materials or (h) any negligence of a Covered Party or its employees, contractors or agents in connection with the performance of the Commission's obligations under this agreement.

8.3 No Covered Party shall be liable for any special, indirect, incidental, or consequential damages of any kind whatsoever (including, without limitation, legal fees) in any way due to, resulting from, or arising in connection with VIRRGIN, the Materials, or the failure of any Covered Party to perform its obligations, regardless of any negligence of any Covered Party.

9 INTELLECTUAL PROPERTY & PROPRIETARY RIGHTS

9.1 All right, title, and interest (including all copyrights and other intellectual property rights) in VIRRGIN belong to the Commission or the Commission's third party suppliers. The Subscriber acquires no ownership of copyright or other intellectual property rights or proprietary interest in VIRRGIN.

9.2 The Subscriber acknowledges and agrees that VIRRGIN and any software used in connection with VIRRGIN ("Third Party Software") contain proprietary and confidential information that is protected by applicable intellectual property and other laws. The Subscriber agrees not to and not to permit any person to modify, create a derivative work from, reverse engineer, reverse assembly or otherwise attempt to discover any source code, sell, assign, sublicense, grant a security interest in or otherwise transfer any right in VIRRGIN or the Third Party Software.

9.3 The Subscriber may not use VIRRGIN in any fashion that infringes the copyright or proprietary interests therein.

10 SYSTEM AUDIT

From time to time, the Commission will perform maintenance activities and conduct audits of the use of VIRRGIN and the Materials. Except in cases of urgency, the Commission shall give the Subscriber no less than 24 hours notice that maintenance affecting the performance or availability of VIRRGIN is to be performed.

11 UPGRADES/CHANGES

11.1 Materials and features may be added to or withdrawn from VIRRGIN and VIRRGIN may otherwise be changed without notice to the Subscriber.

11.2 Unless expressly stated otherwise, any new features or functionality relating to the services provided under this Agreement, including the release of new VIRRGIN functions, shall be subject to this Agreement.

12 ASSIGNMENT

The Subscriber shall not assign its rights or delegate its duties under this Agreement.

13 NOTICES

13.1 Except as otherwise provided herein, all notices and other communications to the Subscriber under this Agreement shall be in writing or displayed electronically on the Commission's website or in VIRRGIN. Notices to the Subscriber shall be deemed to have been properly given on the date posted, if posted; on the date emailed, if sent by email; on the date first made available, if displayed in VIRRGIN; or on the date received, if delivered in any other manner.

13.2 All Notices to the Commission under this Agreement must be hand-delivered or sent by email to:

Mail or Hand Delivery

VIRRGIN Support
Information Technology Manager
BVI Financial Services Commission
Haycraft Building P O Box 418
Pasea Estate, Tortola VG1110
British Virgin Islands

Email: VIRRGINsupport@bvifsc.vg

14. SCOPE AND VARIATION OF AGREEMENT

14.1 This Agreement may only be executed in the form published on the Commission's website (www.bvifsc.vg) and changes are only permitted as to the date of the Agreement and the names and addresses of the Subscriber and any other amendment or variation to this Agreement is invalid and shall not bind Commission.

14.2 This Agreement may be varied by the Commission at any time and without prior notice to the Subscriber. Continued use of VIRRGIN following any variation of this Agreement constitutes acceptance of the variation but the Commission may, in any event, require that the Subscriber enter into an Agreement in the amended form prior to the renewal of the licence granted by this Agreement.

14.3 This Agreement is supplemented by, the provisions set out in the prescribed application forms made available by the Commission via the Form Library at the Commission's website, www.bvifsc.vg and also via VIRRGIN, online descriptions of files, online notices following file selection and guidelines or policies which may be posted on the Commission's website, www.bvifsc.vg, from time to time (collectively, the "Additional Terms"). The Additional Terms are incorporated into this Agreement.

15. WAIVER

15.1 The failure of the Commission to enforce any provision of this Agreement shall not constitute or be construed as a waiver of that provision or of the right to enforce it at a later time.

16. SEVERANCE

16.1 If any clause or part of this Agreement is found by any court or body or authority of competent jurisdiction to be illegal, unlawful, void or unenforceable, that provision will, to the extent required, be severed from this Agreement and will be ineffective, without, as far as is possible, modifying any other clause or part of this Agreement which will remain in full force and effect.

17. GOVERNING LAW

17.1 This Agreement shall be governed by and construed in accordance with the laws of the British Virgin Islands.

18. DISPUTE RESOLUTION

Any dispute controversy, or claim arising out of, or relating to, or in connection with this Agreement, including with respect to the formation, applicability, breach, termination, invalidity, enforceability or any dispute regarding non-contractual obligations arising out of or relating to such obligations, shall be referred to the BVI International Arbitration Centre for resolution pursuant to the BVI IAC Arbitration Rules (in force at the time of submission of a Notice of Arbitration and as may be amended from time to time). The seat of the arbitration in relation to this Agreement shall be the Virgin Islands. The number of arbitrators shall be one and the arbitration proceedings shall be conducted in English

SIGNED BY or on behalf of the parties on the Effective Date.

Subscriber to *print* the following information clearly.

FINANCIAL SERVICES COMMISSION

Name of Applicant Firm

.....
Deputy Managing Director, Corporate Services

Physical Address: **Mailing Address:**

SUBSCRIBER- Director

Telephone Number (including extension):

.....
Name:

Fax Number:

Email Address:

SCHEDULE 1

FINANCIAL SERVICES LEGISLATION

Banks and Trust Companies Act
BVI Business Companies Act
Companies Act (Cap. 285)
Company Management Act
Financial Services Commission Act
Insolvency Act
Insurance Act
International Business Companies Act (Cap.291)
Merchandise Marks Act (Cap. 154)
Partnership Act
Patents Act (Cap. 155)
Proceeds of Criminal Conduct Act
Registration of United Kingdom Patents (Cap. 156)
Registration of United Kingdom Trade Marks (Cap. 157)
Securities and Investment Business Act
Trade Marks Act
United Kingdom Designs (Protection) Act (Cap. 159)