



# Fearnley Securities AS

## Standard Terms of Assignment

Last updated: 10.08. 2020

## INVESTMENT BANKING

### STANDARD TERMS OF ASSIGNMENT

#### **1. The Assignment**

These standard terms of assignment ("Standard Terms") form an integral part of the Mandate Agreement and any separate agreements entered into between the Manager and the Client.

Terms defined in the Mandate Agreement shall have the same meaning when used herein.

The Manager's General Business Terms and Conditions are available at [www.fearnleysecurities.com](http://www.fearnleysecurities.com) and include information on i.a. the services performed by the Manager, client classification and general provisions on the Manager's business activities.

In the event of discrepancies between the Mandate Agreement and these Standard Terms, the Mandate Agreement shall prevail. In the event of discrepancies between these Standard Terms and the Manager's General Business Terms and Conditions, these Standard Terms shall prevail.

#### **2. Fees and Expenses**

The Client shall pay fees as specified in the Mandate Agreement.

In addition to the agreed fees the Client shall bear all costs related to the Transaction irrespective of whether the Transaction is completed. Such costs may include but is not limited to costs relating to external legal counsel, auditors, other advisors, printers, translation and other production costs, and direct expenses for travel and accommodation for the Manager's personnel. Reimbursable expenses may be invoiced on an ongoing basis during the term of the assignment. The Manager may at its discretion direct third parties engaged in relation to the Transaction to invoice the Client directly.

Reimbursable expenses shall be supported by documentation in the form of an invoice or as reasonably requested by the Client. The Manager is entitled to settle fees and reimbursements against payments made to the Manager in relation to transactions covered by the Assignment.

Fees, reimbursable expenses and other amounts payable by the Client are exclusive of value added tax and other governmental duties that may apply, unless explicitly included. Accrued VAT or other taxes/duties on fees or reimbursable expenses are payable by the Client and will be invoiced to the Client.

All sums payable to the Manager are payable in Norwegian kroner (unless any other currency is agreed).

Reimbursements shall be invoiced with two weeks' notice of payment.

#### **3. Disclosure of information and due diligence**

The Manager and its advisors shall continuously receive all documentation, material and other information which is relevant for the purpose of completing the Transaction, including changes and updates thereto. The Client is obligated to provide such documentation, material or information in a timely manner. The Manager will rely upon and assume, without independent verification, the accuracy and completeness of documentation, material or information provided by the Client.

The Client shall at all times keep the Manager fully informed of all strategies, developments, discussions and circumstances that may have relevance for the Transaction. The Manager shall be consulted before the Client resolves or acts in a manner that affects the Transaction.

To the extent deemed necessary by the Manager, the Manager may require that legal, financial, and/or commercial due diligence reviews are carried out. Such due diligence review(s) shall be for the cost of the Client. The Manager shall have the right to appoint or approve independent advisors to perform the due diligence. The scope of the due diligence shall be suitable taking the nature of the Transaction into consideration and the Manager shall be entitled to determine such scope on the basis of a dialogue with the Client and the due diligence advisors.

To the extent deemed necessary by the Manager, the Manager may require that the Client's independent auditor conducts a limited audit.

The Client, as well as the executive management and board of directors of the Client, shall at the request of the Manager be obligated to sign a separate Statement of Completeness and Indemnity relating to documentation provided in the Transaction and the due diligence review. To the extent deemed necessary by the Manager, the Manager may require that a bring-down due diligence call/questionnaire is conducted with the Client's executive management and board of directors prior to closing of the Transaction to update the Client's representations and warranties.

#### **4. Investment material and other documentation prepared with the assistance of the Manager**

Without the prior consent of the Manager, any documentation prepared with the assistance of the Manager in connection with the Transaction shall not be copied or distributed for any use other than in connection with the Transaction.

#### **5. Compliance with laws**

The Client is obligated to comply with all applicable laws or regulation, there under the rules of a listing exchange or market or an OTC-market etc. applicable to the Client in Norway and any other jurisdiction.

#### **6. Treatment of inside information for stock exchange listed Clients**

The Client shall inform the Manager when information or documentation proved to the Manager are classified as inside information by the Client. The Manager shall treat any inside information relating to the Client in accordance with any requirements under Norwegian law as to the treatment of such information. The Manager shall maintain lists in accordance with the requirements imposed by Norwegian law of employees and third parties to whom the Manager provides access to inside information. To the extent the Client is listed outside Norway the Client shall provide sufficiently detailed information about the obligations of the Manager by receiving the inside information to enable the Manager to comply with the regulation of the jurisdiction in question or reimburse expenses incurred by the Manager to obtain proper advise of its obligations.

## **7. Confidentiality**

The Manager undertakes to treat as confidential any information concerning matters related to the Client that the Manager receives from the Client during the Assignment unless otherwise agreed between the parties. The Client undertakes to treat as confidential any information concerning the content of the Mandate Agreement and these Standard Terms. Both the Manager and the Client shall also treat as confidential any information concerning the Assignment and the Transaction until such information is announced as agreed between the parties.

The duty of confidentiality shall not apply to any information which (i) was known to the Manager prior to the time of disclosure by the Client; (ii) is in, or comes into the public domain; or (iii) is obtained lawfully from a third party who is not under an obligation to keep the information confidential. This duty of confidentiality shall not prevent the Manager from disclosing confidential information in so far as required by mandatory law or regulation.

## **8. Liability**

The Manager, its employees, representatives and advisors shall not be liable towards the Client or any of its directors, officers, employees or agents for any claim, loss, damage, liability, cost or expense suffered by the Client or any such other person arising out of or related to the Assignment, unless caused by the gross negligence or wilful misconduct of the Manager. The Manager, its employees, representatives and advisors shall under no circumstances be liable for any indirect losses.

The Manager, its employees, representatives and advisers may not be held liable for services rendered or advice given by third parties, including advisers engaged by the Manager, with regard to the Transaction or Assignment. The Manager, its employees, representatives and advisers may not be held liable for services rendered or advice given by the Client in relation to the Transaction or Assignment.

The Manager may include a disclaimer in the marketing and subscription material describing its scope of liability.

The combined liability of the Manager, its employees, representatives and advisers shall be limited to the total fee earned by the Manager under the Mandate Agreement.

## **9. Indemnification**

The Client agrees to indemnify, defend and hold harmless the Manager, its employees, representatives and advisors from and against all claims, actions, proceedings, demands, losses, damages, liabilities, costs and expenses incurred by such person in any jurisdiction in relation to the Transaction or Assignment, including but not limited to (i) if arising out of or in connection with any untrue statement or alleged untrue statement of a material fact contained in any documentation in connection with the Assignment or any omission or alleged omission to state therein a material fact necessary to make the statements therein not misleading or (ii) if otherwise arising out of or in connection with the Assignment or any other matter or activity referred to or contemplated by under the Mandate Agreement or which arise out of any breach by the Client and/or its subsidiaries of any of its obligations, duties or warranties it may be deemed to have given under the terms of the Mandate Agreement.

The indemnification covers all costs and expenses incurred in relation to legal assistance and other professional assistance in connection with the investigation and defense of such third party claims, irrespective of whether anyone is found to be responsible.

The Client shall promptly notify the Manager of all matters or activities that possibly could lead to claims, actions, proceedings, demands, losses, damages, liabilities, costs and expenses covered by this Section 9. Such notice will not discharge the Client from its responsibility to indemnify the Manager.

The Manager shall promptly notify the Client if a claim is made against the Manager, its employees, representatives or advisors and which the Manager considers may be covered by this Section 9.

#### **10. Public announcements**

The Client shall consult with the Manager prior to making any written or oral announcements or statements relating to the Transaction, and the Manager shall be given the opportunity to comment upon any such announcements. In the event that any announcement shall be made with respect to the Transaction, the Client agrees, to include reference to the Manager and its role as requested by the Manager. If so required the form and content of such reference shall be agreed between the Client and the Manager. If and when the Transaction is published, the Manager may at its discretion refer to its role in the Transaction for marketing purposes and use of the Client's logo without further approval by the Client.

#### **11. Conflicts of interest**

The Client acknowledges that the Manager is involved in a wide range of investment banking activities (including research, securities issuance, trading and brokerage) involving other Clients viewed as competitors of the Client or in similar type transactions carried out at the same time as the Transaction. The Manager will adhere to the branch standards and regulation regarding conflicts of interest. Please see the General Business Terms and Conditions Section 3 for information on the Manager' handling of conflicts of interest.

#### **12. Choice of Law and disputes**

All matters arising out of or relating to these Standard Terms shall be governed by Norwegian law.

Any dispute arising from these Standard Terms shall be settled by the ordinary courts with Oslo District Court as the (non-exclusive) legal venue. Clients with a foreign legal venue waive any right they have to oppose a lawsuit that is related to these Standard Terms being heard by the Oslo District Court. Clients with a legal venue abroad may, irrespective of the above, be sued by the Manager in such a legal venue should the Manager wish to do so.