This Securities Facility Services Agreement (“the Agreement”) effective as of [date] (the “Effective Date”) is made between:

**[ISSUER NAME]**, a [jurisdiction] [entity type] with registration number [number] having its registered office at [address] (“Issuer”)

**AND**

**MERJ DEPOSITORY AND REGISTRY LIMITED,** a company duly incorporated under the laws of Seychelles with company registration number (8411029-1), having its registered office at F28 Eden Plaza, Eden Island, Seychelles (“MERJ DEP”),

(each individually referred to as “Party” and collectively the “Parties”).

**WHEREAS**

1. MERJ DEP is a company licensed as a Securities Facility pursuant to the Seychelles Securities Act, 2007;
2. The Issuer intends to list its Securities on the Seychelles Securities Exchange operated by MERJ EXCHANGE LIMITED (“MERJ EXCHANGE”);
3. Applicable law of the Issuer does not permit the Issuer’s securities for which application is being made to be registered or transferred pursuant to the rules of the clearing and settlement system operated by the Clearing Agency;
4. The Issuer requires MERJ DEP to provide services (“Securities Facility Services”) as prescribed in this Agreement and the MERJ DEP Securities Facility Rules, including the Directive on Depository Interests and MERJ DEP Procedures as a requirement of its listing on MERJ EXCHANGE; and
5. The Issuer wishes to appoint MERJ DEP, and MERJ DEP agrees, to provide Securities Facility Services on the terms and conditions set forth in this Agreement.

**INTERPRETATION**

In this agreement the following terms shall be interpreted to have the following meanings:

“cash corporate actions” means those corporate actions that have a direct monetary impact on the issued securities;

“Clearing Agency” refers to MERJ Clearing and Settlement Limited, a licensed and regulated clearing agency in Seychelles which provides clearing and settlement services for securities and operates a clearing and settlement system;

“corporate action” means actions taken by an Issuer of a listed security which affects the registered owner and the beneficial owner of the security in terms of an entitlement;

“MDI Holder” means the Holder of a MDI;

“MDI Register” means the register of MDIs;

“MERJ CLEAR” means MERJ Clearing and Settlement Ltd., a licensed clearing agency and operator of a securities clearing and settlement system in the Republic of Seychelles;

“MERJ Depository Interest” or “MDI” means a unit of beneficial ownership in a Principle E Eligible Asset (i.e. a Principle Security in terms of this Agreement) of the Issuer registered in the name of the Depository Nominee;

“MERJ Nominees” means MERJ Nominees Ltd., a Depository Nominee wholly owned subsidiary of MERJ DEP which provides services relating to holding registered ownership of Securities for which Securities Facility Services are provided;

“non-cash corporate action” means a corporate action that has no direct monetary impact on the issued securities of the Issuer;

“Principle Register” means the register of Holdings of Principal Securities maintained by a Principal Issuer under laws applicable to the Principal Issuer in the place where it is established and which otherwise complies with the Securities Facility Rules;

“Principle Securities” means the securities issued under applicable law by the Issuer indicated in Exhibit C which are Principle Eligible Assets in terms of the Securities Facility Rules (see Directive on Depository Interests);

“Principle Securities Holder” means a person who directly holds the Principle Securities as reflected in the Principle Register;

“Securities Facility Rules” means the MERJ DEP Securities Facility Rules and any Directives (as defined in the MERJ DEP Securities Facility Rules) thereto that may be in force at any time;

“Website” means <https://merj.exchange> or for Issuers listed on Upstream then <https://upstream.exchange>

1. **APPROVALS AND APPOINTMENTS**
2. Depository Nominee

The Issuer appoints MERJ Nominees to act as the Depository Nominee in respect of any MDIs issued over the Principle Securities for which quotation is sought on a market operated by MERJ EXCHANGE and acknowledges the indemnities given by us to MERJ Nominees as the Depository Nominee, and accepts the power of attorney given to us by MERJ Nominees as the Depository Nominee, pursuant to the Securities Facility Rules Directive on Depository Interests.

1. Securities Facility
2. MERJ DEP is irrevocably authorized to establish and administer an MDI Subregister in respect of the MDIs over the Principle Securities for which quotation is sought.
3. Issuer will satisfy the technical and performance requirements of the Securities Facility and meet all other requirements MERJ DEP imposes in connection with participation of our MDIs in the Securities Facility.
4. Fees and expenses

In return for the provision of the Securities Facility Services, the Issuer agrees to pay, or cause to be paid, to MERJ DEP all the fees in effect from time to time as set out in the prevailing MERJ DEP schedule of fees as published at any time on the Website or otherwise as agreed in writing between the Parties (the “Fees”).

1. Payment due date

All Fees shall be paid by the Issuer within 30 days of receipt of the invoice.

1. **AUTHORISED OFFICERS**
2. The Issuer shall provide and maintain a current list of the authorised officers and their contact details who are authorised to provide instructions to MERJ DEP and confirm information relating to the Principle Register. MERJ DEP shall be protected and held harmless in recognizing and acting upon any signature, certificates, email communications from a designated email address of an authorised officer or any other document believed by it to be in good faith and genuine.
3. When any officer of the Issuer shall no longer be vested with the authority of an authorised officer for the purposes of this Agreement, a written notice thereof shall be given to MERJ DEP and until receipt of such notice MERJ DEP shall be fully protected and held harmless in recognizing and acting upon instructions or information communicated by the authorised officer or the evidence of Securities bearing the signature, including where a digital signature via Docusign or a similar mutually agreed digital document signing platform, of such officer or any signature believed by it in good faith to be such genuine signature.
4. **PROVISION OF SERVICES**
5. MERJ DEP shall provide Securities Facility Services pursuant to this Agreement, the Securities Facility Rules and Sections 1 to 15 of the Directive on Depository Interests to support the listing and trading of the Securities on MERJ EXCHANGE.
6. MERJ DEP shall work with the Issuer or its appointed agent to provide identifying information and supporting documents and similar to facilitate compliance with anti-money laundering laws.
7. MERJ DEP agrees to provide timely information relating to the MDIs maintained in the MDI Register upon request by the Issuer about the MDI Holders and the number of MDIs held in order to assist with corporate actions processing, legal or regulatory requirements, subject to payment of any fees required. MERJ DEP represents and warrants that all such updates provided to the Issuer shall be accurate and complete.
8. When MERJ DEP deems it expedient it may apply to the Issuer, or counsel for the Issuer, or to its own counsel for instructions and advice; the Issuer will promptly furnish or will cause its counsel to furnish such instructions and advice, and, for any action taken in accordance with such instructions or advice, or in case such instructions and advice shall not be promptly furnished, the Issuer will indemnify and hold harmless MERJ DEP from any and all liability, including reasonable attorney’s fees and court costs.
9. MERJ DEP shall execute and make the necessary entries for all non-cash corporate actions and cash corporate actions relating to MDIs reflected in the MDI Register in accordance with the Issuer’s instructions and shall ensure appropriate entries to respective accounts and registers it maintains are made accordingly provided that any related funds, cryptocurrency or securities have been delivered to the designated account(s) and appropriate authorising instructions and supporting information and documentation has been provided to MERJ DEP by the Issuer.
10. The Issuer shall instruct MERJ DEP of MERJ DEP’s necessary actions in relation to a cash corporate action and transfer the monetary payments (including cryptocurrency) to a designated account or blockchain address or addresses.
11. **RESPONSIBILITIES**
12. The Issuer may, in connection with the services described in the Agreement, engage subcontractors, agents, transfer agents or attorneys-in-fact, provided the same shall have been selected with reasonable care. MERJ DEP is authorized by the Issuer to execute all agreements, appoint agents or sub-agents and do all other acts deemed necessary to carry out the general purposes of this Agreement. The Issuer shall provide to MERJ DEP any books, records, or memoranda which are required in defense of any claim which may arise in the performance of the MERJ DEP’s duties hereunder.
13. MERJ DEP may consult with counsel of its choice, and any advice of such counsel shall be full and complete authorization and protection to MERJ DEP with respect to any action taken or omitted by it in good faith, in reliance upon such advice, in connection with the performance of its duties or obligations under the Agreement. The Issuer agrees to reimburse MERJ DEP for all reasonable expenses, disbursements and counsel fees (including reasonable expenses and disbursements of counsel) incurred with respect thereto.
14. Requests for payment of Fees and expenses shall be submitted by MERJ DEP to the Issuer in the form of a written invoice at the beginning of each month for the services to be provided for the prior month or annually based on service period. The Issuer shall make payment upon receipt of all invoices and all invoices shall be considered late if not paid in full by the last day of each month. The Issuer shall be liable for interest at the rate of 1.00% per month for all late invoices.
15. MERJ DEP will, at its own expense, maintain in full force and effect at all times during the term of this appointment insurance coverage in amounts with standard coverage and subject to deductibles as is customary for insurance typically maintained by similar securities facilities based on the size and scope of operations.
16. Nothing in the Agreement shall be construed to give any person or entity other than MERJ DEP and the Issuer, and their successors and assigns, any legal or equitable right, remedy or claim under this Agreement. The Agreement shall be for the sole and exclusive benefit of MERJ DEP and the Issuer.
17. **WARRANTIES**
18. The Issuer represents and warrants that -
19. it has provided original and true and correct copies to the Securities Facility of each of the documents listed in the Legal Document Checklist attached as Exhibit A;
20. the information provided in the Key Contacts Information Form attached as Exhibit C and provided to the Securities Facility is true and correct; and
21. it has duly executed the Reliance Letter attached as Exhibit D providing assurances relating to the Principle Register maintained by the Issuer or its agent.
22. In addition to the warranties set out elsewhere in this Agreement, Issuer represents and undertakes that:
23. it is duly incorporated and validly existing under applicable law;

 it has full capacity and power to enter into this Agreement;

1. all necessary statutory, regulatory and company authorisations and approvals have been obtained to enter into and perform its obligations in this Agreement and in connection to the Securities;
2. it has not filed any voluntary petition in bankruptcy, nor have their creditors filed any involuntary petition against it; and
3. there are no actions, suits or proceedings or regulatory investigations pending, or to that Party’s knowledge, threatened against or affecting that Party before any court or regulatory body or tribunal that might affect the ability of that Party to meet and carry out its obligations under this Agreement.
4. Each Party represents and warrants on an on-going basis that it shall maintain and, so far as it is possible, keep up to date all its obligations under applicable law and regulations governing the activities of the Party, so as not to prevent the other Party from performing its duties under this Agreement.

1. **DISPUTE RESOLUTION**

In the event of any dispute, subject to applicable laws of the Republic of Seychelles, such dispute shall be dealt with in accordance with the Complaints and Dispute Resolution section of the Securities Facility Rules of MERJ DEP.

1. **TERM**

The term of this Agreement shall extend until Termination of Services pursuant to Section 8.

1. **TERMINATION OF SERVICES**
2. MERJ DEP shall cease to provide Securities Facility Services upon the termination of the relevant listing of the class of Securities of the Issuer for which services have been provided.
3. On the date of termination, the Issuer agrees to pay any outstanding fees and MERJ DEP shall provide the necessary information to the Issuer or its agent and work with the Issuer or its agent to assist with Transmutation of any MDIs to Principal Securities or otherwise transfer any Securities held in the name of MERJ Nominees to the underlying owners.
4. Upon request of the Issuer, MERJ DEP shall deliver, at the expense of the Issuer, to the Issuer or to its appointed Transfer Agent if so instructed by the Issuer, all records of maintained by MERJ DEP including any Subregister and information and copies of supporting documents (i.e. “KYC”) relating to Holders of the relevant Securities.
5. **GOVERNING LAW**

This Agreement shall be governed by and construed in accordance with the laws of the Republic of Seychelles. The Parties submit to the exclusive jurisdiction of the courts of Seychelles.

1. **AMENDMENT; ENTIRE AGREEMENT; SEVERABILITY**
2. The Agreement may be amended or modified only by a written document authorized, executed and delivered by the Issuer and MERJ DEP. Such document may be in the form of a resolution of the Issuer adopting a written amendment approved by the Securities Facility.
3. This Agreement, together with its appended exhibits and schedules, sets forth and constitutes the entire Agreement and understanding of the Parties with respect to the subject matter hereof. This Agreement supersedes any and all prior agreements, negotiations, correspondence, undertakings, promises, covenants, arrangements, communications, representations, and warranties, whether oral or written, of any Party relating to its subject matter.
4. **WAIVER**

No failure or delay by a Party to exercise any right or remedy provided under this Agreement or by-law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy. A waiver of any right or remedy under this Agreement or by law is only effective if it is in writing.

1. **NOTICES**

All notices required in connection to this Agreement shall be made in writing and sent by registered post or via email to:

|  |  |
| --- | --- |
| For the Issuer to:[Department/Title][Name][Address]Email:  | For MERJ DEP to:Attn: Managing DirectorMERJ DEP LtdF28 Eden PlazaEden IslandMaheSeychellesEmail: legal@merj.exchange |

**IN WITNESS WHEREOF** this Agreement has been agreed, accepted and executed as of the day and year first above written.

|  |  |
| --- | --- |
| For and on behalf of the **Issuer**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Name: Title: | For and on behalf of **MERJ DEP**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Name: Title: |

**EXHIBIT A**

**LEGAL DOCUMENT CHECKLIST**

Documents required to make MERJ DEP’s appointment as Securities Facility effective.

|  |  |
| --- | --- |
| \_\_\_ 1.  | A copy of the Certificate of Incorporation of the Issuer, together with all amendments thereto, proof of good standing (link to public Registrar or certificate of good standing), Bylaws/Articles of the Issuer and all amendments thereto and the Listing Particulars/Prospectus.  |
| \_\_\_ 2.  | Key Contacts Information Form (Exhibit B)  |
| \_\_\_ 3.  | Fully executed Certificate of Appointment (Exhibit C). |
| \_\_\_ 4.  | A Reliance Letter (Exhibit D) signed by an authorized officer of the Corporation. |
| \_\_\_ 5.  | A list (Exhibit E) of names, titles, contract details and specimen signatures of authorized officers  |
| \_\_\_ 6.  | A legal opinion (where requested by MERJ DEP). |
| \_\_\_ 7.  | Other agreements and documents as may be determined to be necessary. |

**EXHIBIT B**

**KEY CONTACTS INFORMATION FORM**

|  |  |
| --- | --- |
| **1. Issuer Information** |  |
| Name: |  |
| Mailing Address: |  |
| Phone Number: |  |
| Tax Identification Number: |  |
|  |  |
| Individual Contacts |  |
|  |  |
| Primary Contact Name: |  |
| Primary Contact Title: |  |
| Primary Contact Phone: |  |
| Primary Contact Email: |  |
|  |  |
| Billing Contact Name: |  |
| Billing Contact Phone |  |
| Billing Contact Email |  |
|  |  |
| **2. Issuer Counsel** |  |
| Firm Name: |  |
| Firm Address: |  |
| Individual Name: |  |
| Individual Phone Number: |  |
|  |  |
| **3. Transfer Agent/ Registrar (if any)** |  |
| Name: |  |
| Mailing Address: |  |
| Phone Number: |  |
| Tax Identification Number: |  |
|  |  |
| Individual Contacts |  |
|  |  |
| Primary Contact Name: |  |
| Primary Contact Title: |  |
| Primary Contact Phone: |  |
| Primary Contact Email: |  |

**EXHIBIT C**

**CERTIFICATE OF APPOINTMENT**

**OF MERJ DEPOSITORY AND REGISTRY LIMITED AS**

**SECURITIES FACILITY**

By [Issuer Name] a [jurisdiction] Issuer (the “Issuer”),

**WHEREAS** the Issuer is authorized to issue the following securities (the “Principle Securities”):

|  |  |  |  |
| --- | --- | --- | --- |
| **Class of Securities** | **ISIN/CUSIP** | **Par Value or Exercise Price** | **No. Securities Authorized** |
| Class Name | 12345 | $0.01 | 12345 |

**WHEREAS**, the Principle Securities outstanding on the date of this Certificate and issued after the date of this Certificate (a) are duly authorized, validly issued, fully paid and non-assessable and any pre-emptive and other contractual rights related to all issuances of the Securities have been satisfied, and (b) have been registered under the applicable law of the domicile of the Issuer or are exempt from registration. All issuances and transfers of Securities have been, and after the date of this Certificate will be, in compliance with all applicable laws, rules and regulations and any certificates evidencing the Securities shall bear all required legends.

**NOW THEREFORE**, I, the undersigned, do hereby certify that I am the duly elected, qualified and acting Chief Executive Officer of the Issuer, organized and existing under the laws of [jurisdiction]; that (i) approval by the Board of Directors is not necessary for the appointment of MERJ DEPOSITORY AND REGISTRY LIMITED as the Securities Facility, or (ii) the following is a true copy of a resolution adopted by the Board of Directors of said Issuer at a meeting duly held on [date] at which a quorum was present and voted, or by unanimous written consent effective as of such date, that said resolution is now in full force and effect, and shall remain in full force and effect until altered by subsequent Board resolution:

RESOLVED, that MERJ DEPOSITORY AND REGISTRY LIMITED, its successors and assigns, is hereby appointed Securities Facility (the “Securities Facility”) effective from the date of enforcement of the Securities Facility Agreement (the “Effective Date of Appointment”), to act in accordance with its general practices, for securities facility services relating to those securities deposited or otherwise registered in the name of its appointed depository nominee at any time in accordance with the agreement between the Securities Facility and the Issuer and the MERJ DEP Securities Facility Rules.

WITNESS my authorized signature as Chief Executive Officer of the Issuer this [day] day of [month], [year].

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Signature: |  |  | Signature: |  |
| Name: |   |  | Name: |  |
| Title: |  |  | Title: |  |

**EXHIBIT D**

**RELIANCE LETTER**

29 November 2022

MERJ Depository and Registry Limited

Attn: Chief Executive Officer

F28 Eden Plaza

Eden Island

Republic of Seychelles

Dear Sirs:

MERJ Depository and Registry Limited (“MERJ DEP”) can rely on the Principle Register of the Principle Securities for which Securities Facility Services are requested for [issuer name] (the “Issuer”) provided by the Issuer to MERJ DEP (the “Principle Register”). The Principle Register is a complete and accurate listing of all outstanding Principle Securities of the Issuer. Except as indicated in the Principle Register, there are no (i) stop transfer orders (e.g., lost certificates or adverse claims), (ii) court order or other document that affects the transfer and/or registration of the Principle Securities, and (iii) transfer restrictions in effect against any outstanding Principle Securities.

Sincerely,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Name]

[Title]

**EXHIBIT E**

**AUTHORIZED OFFICERS**

The following individuals are Authorized Officers of [issuer name] (the “Issuer”) for the purposes of the Agreement executed between the Issuer and MERJ Depository and Registry Limited.

**AUTHORIZED OFFICERS (list each individual so authorized)**

|  |  |
| --- | --- |
| **Individual 1** |  |
| Name: |  |
| Title: |  |
| Phone Number: |  |
| Email: |  |
|  |  |
| **Individual 2** |  |
| Name: |  |
| Title: |  |
| Phone Number: |  |
| Email: |  |
|  |  |
| **Individual 3** |  |
| Name: |  |
| Title: |  |
| Phone Number: |  |
| Email: |  |
|  |  |
| **Individual 4** |  |
| Name: |  |
| Title: |  |
| Phone Number: |  |
| Email: |  |
|  |  |
| **Individual 5** |  |
| Name: |  |
| Title: |  |
| Phone Number: |  |
| Email: |  |

Sincerely,

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

[Name]

[Title]