

**International Capital Market Association**  
**Terms and Conditions**

*Your attention is drawn in particular to the provisions of clauses 6.6 (Liability for Digital Content), 12 (Liability) and 16.2 (Choice of Law)*

Please read carefully the following important terms and conditions before you (as defined below) download this content, checking that it contains everything you want and nothing that you are not willing to agree to. If you do not agree to these terms and conditions, ICMA will not licence the content to you and you must not access or use (and must cease attempting to access) the content.

**These terms and conditions are a contract between us and you ("Agreement") and set out:**

- your legal rights and responsibilities;
- our legal rights and responsibilities; and
- certain key information required by law.

Unless expressly stated otherwise, this Agreement applies to the exclusion of any other terms that you seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing.

**In this Agreement:**

- "Digital Content" means the ICMA GMRA Clause Library;
- "Documentation Platform" means a document creation and generation platform which merges data into any combination of document templates;
- "we", "us" or "our" means International Capital Market Association;
- "website" means <https://www.icmagroup.org>; and
- "you" or "your" means the organisation downloading the Digital Content from us.

If you have any questions about this Agreement or any downloads you have made, please contact us by sending an email to [ICMACLT@icmagroup.org](mailto:ICMACLT@icmagroup.org).

**Who are we?**

We are International Capital Market Association, an association (Verein) established and existing under the laws of Switzerland with enterprise identification number (UID): CHE100619246. Our registered office is at Dreikönigstrasse 8, 8002 Zurich, Switzerland. Our VAT number is: CHE-100.619.246 MWST

## **1. INTRODUCTION**

1.1 If you download the Digital Content from us, you agree to be legally bound by this Agreement.

1.2 This Agreement is only available in English. No other languages will apply to this Agreement.

1.3 When you download the Digital Content from our website, you also agree to be legally bound by:

1.3.1 our legal information (as set out at <https://www.icmagroup.org/legal/>); and

1.3.2 extra terms which may add to, or replace some of, this Agreement. We may post changes to these terms and conditions, and such changes shall be effective from the next time you use the ICMA GMRA Clause Library. If you do not accept such changes, you will not be permitted to continue to access and use the Digital Content.

All of the above documents form part of this Agreement as though set out in full here.

## **2. YOUR PRIVACY & PERSONAL INFORMATION**

2.1 Our "Privacy, data and cookies policy" is available at <https://www.icmagroup.org/privacy-policy/>.

2.2 Your privacy and personal information are important to us. Any personal information that you provide to us will be dealt with in line with our Privacy, data and cookies policy, which explains what personal information we collect from you, how and why we collect, store, use and share such information, your rights in relation to your personal information and how to contact us and supervisory authorities if you have a query or complaint about the use of your personal information.

### 3. AVAILABILITY OF THE DIGITAL CONTENT

3.1 The Digital Content will be made available to you as binary files on our website in the following three formats: .xls, .doc, and .pdf. Before you download the Digital Content, you must check that the hardware and software requirements of your computer or device mean that you can download the Digital Content.

3.2 We may contact you in relation to this Agreement if:

3.2.1 the Digital Content is unavailable;

3.2.2 you are not allowed to download the Digital Content from us;

3.2.3 we are not allowed to make the Digital Content available to you;

3.2.4 there are changes or developments to the Digital Content and to contact you for your views on the Digital Content;

3.2.5 we suspect you have breached or you have breached the terms of this Agreement; or

3.2.6 you have requested access to additional clauses that we may produce or update following feedback received from members and associates or otherwise in relation to the maintenance plan or the change control process that you, we or another member may instigate in relation to the Digital Content. We are always happy to hear from you and your personnel in relation to the Digital Content.

3.3 The website is not intended for minors. If you are under the age of 18 you may not download the Digital Content from the website.

### 4. ACCESS TO DIGITAL CONTENT

4.1 As part of the consideration for being a member of ICMA or being an associate member (as the case may be), you acquire a non-exclusive, non-transferable, revocable licence to access, use and copy the Digital Content in the ordinary course of your organisation's business solely for use internally within your own firm and/or during negotiations of Digital Content. This right does (i) not include any rights to sub-licence or commercially exploit the Digital Content and (ii) include the right to upload to a third party's Documentation Platform as specified in clause 4.4. You acknowledge that additional fees may be payable on any change of use of the Digital Content.

4.2 For the avoidance of doubt, if you are not a member or associate member of ICMA, you will need to contact us at [ICMACLT@icmagroup.org](mailto:ICMACLT@icmagroup.org) to pay the relevant fee and/or agree relevant terms in order to be able to access and use the Digital Content.

4.3 Access to the Digital Content will be via [www.icmagroup.org](http://www.icmagroup.org) and requires a member login to the website to access. If you are not logged in, then you will be prompted to do so, or if you are a non-member, you must contact us at [ICMACLT@icmagroup.org](mailto:ICMACLT@icmagroup.org) to arrange for content to be delivered by email.

4.4 Any full member or associate member (including any employee, officer or contractor of such member) who wishes to upload the Digital Content to a third party's Documentation Platform must ensure that, before any such uploading or sharing, they receive the prior written consent of a duly authorised International Capital Market Association representative to the same. You must contact us at [ICMACLT@icmagroup.org](mailto:ICMACLT@icmagroup.org) to seek such consent. Only upon the completion of the consent process can the Digital Content be shared with and uploaded to the relevant third party Documentation Platform. You acknowledge and agree that you shall (i) not be paid (directly or indirectly) for such uploading and (ii) only share the Digital Content with the third party Documentation Platform to generate your own document.

4.5 In the event that an update to the binary files of the Digital Content is required, we will communicate that change to you via email containing a link to the download page. Updated files will be provided by us with tracked changes where possible. Unless we deem the updates to be urgently required, we envisage releasing updates approximately twice a year.

4.6 You acknowledge and agree that you shall comply with all applicable laws and regulations with respect to your activities under this Agreement (including, without limitation, in relation to your access and use of the Digital Content).

4.7 You shall ensure that ICMA may use any feedback and suggestions for improvement relating to the Digital Content provided by you and those who access the Digital Content on your behalf without charge or limitation ("**Feedback**"). You hereby assign (or shall procure the assignment of) all intellectual property rights (including copyright) in the Feedback with full title guarantee (including by way of present assignment of future intellectual property rights) to us at the time such Feedback is first provided to ICMA.

### 5. NO RIGHT TO CANCEL

5.1 You will be asked to tick a box to confirm that you consent for the download of the Digital Content to start upon clicking the relevant file to activate the download.

5.2 This means that you do not have the right to cancel this Agreement once the download of the Digital Content starts. You are not entitled to a rebate (in part or in full) of your membership fees if you do not use the Digital Content for any reason, the Digital Content is faulty or (as set out in clause 7) you cannot download the Digital Content. See clause 10 for more information.

## **6. PERMISSION TO USE THE DIGITAL CONTENT**

6.1 When you download the Digital Content, you will not own it. We or our licensors own the Digital Content. As such, we give you permission to use it (also known as a 'licence') for the purpose of you accessing, using and enjoying it according to this Agreement.

6.2 The Digital Content:

6.2.1 is personal to you. You can use it wherever you want in the world but only for normal internal business purposes (as set out in your usage rights in clause 4.1) and if you comply with local laws and regulations;

6.2.2 is non-exclusive to you. You acknowledge and agree that we may supply the same or similar Digital Content to other full and associate members and possibly other third parties;

6.2.3 may not be: (a) copied by you except for a reasonable number of necessary back-ups; (b) changed by you (which means, in particular, that you are not allowed to adapt, reverse-engineer or decompile it, or try to extract the source code from it, except where any of this is allowed by law and save the extent necessary pursuant to clause 4.1); (c) combined or merged with, or used in, any other computer program; (d) distributed, displayed or sold by you to any third party (other than to a counterparty or prospective counterparty to the relevant Digital Content pursuant to clause 4.1 or upload to a third party's Documentation Platform with the prior written consent of a duly authorised International Capital Market Association representative pursuant to clause 4.4) or (e) used to create any derivative works or competitive products;

6.2.4 includes: (a) updates; (b) upgrades; and (c) new releases;

6.2.5 contains information which is owned by us and/or third parties. You must not conceal, change or remove any markings which show who owns this information, such as copyright (©), registered trade mark (®) or unregistered trademark (™) markings.

6.3 Except where you have permission to use the Digital Content under clause 4.1 and this clause 6, you will not obtain any rights of ownership or other rights (of whatever nature) in the digital content or in any copies of it.

6.4 You may submit any additions, notifications of errors, amendments, or requests to us relating to the Digital Content via a feedback form on the download page of our website.

6.5 You shall immediately report to us any unauthorised use of the Digital Content either within your own firm or by any other parties upon discovery by you.

6.6 The Digital Content are sample templates provided for example purposes only and do not constitute legal advice, nor do they seek to instruct or direct you to take, or avoid taking, any action. Accordingly, we would highly recommend that you engage solicitors or other appropriately qualified professionals to assist with the negotiation and preparation of any agreements which include any part or adaptation of the Digital Content. We accept no liability in respect of any actions taken or not taken by you on the basis of the Digital Content.

6.7 You shall not sub-license, assign, novate, transfer or otherwise dispose of the benefit or burden of this Agreement in whole or in part without the prior written consent of our duly authorised representative.

## **7. DOWNLOAD**

7.1 If something happens which is outside of our control and affects your ability to download the Digital Content, we will let you know when you can expect to be able to download the Digital Content.

7.2 If your computer or device blocks the automatic download of the Digital Content or the automatic download does not start, you may still have the right to cancel the Agreement. If this happens, please contact us at [ICMACLT@icmagroup.org](mailto:ICMACLT@icmagroup.org).

## **8. SEVERANCE**

8.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement.

8.2 If any provision or part-provision of this Agreement is deemed deleted under clause 8.1, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

## **9. NATURE OF THE DIGITAL CONTENT**

9.1 When we supply the Digital Content:

9.1.1 we use reasonable skill and care and we will use all commercially reasonable efforts to ensure that it is free from defects, known-viruses and other known malicious content;

9.1.2 we do not promise that it is compatible with any third party software or equipment except where we have said that it is in the guide to its use or on our website; and

9.1.3 we do not warrant that the use of the website or Digital Content will be uninterrupted or error-free and you acknowledge that there may be minor errors or bugs in the Digital Content.

## **10. FAULTY DIGITAL CONTENT**

10.1 If the Digital Content is faulty, please contact us using the contact details at the top of this page.

10.2 To avoid faults in the Digital Content, you must install any fixes, updates, upgrades and new releases as soon as reasonably possible after we tell you that they are available to be downloaded.

## **11. END OF THE CONTRACT**

If this Agreement is ended for any reason, it shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry.

## **12. LIMITATION ON OUR LIABILITY**

12.1 Subject to clauses 12.2 and 12.3, in no event shall our aggregate liability (whether arising from breach of Agreement, misrepresentation (whether tortious or statutory), tort (including negligence), breach of statutory duty, warranty, strict liability or any other legal theory howsoever arising) in respect of all losses arising under or in connection with this Agreement exceed £1. You acknowledge and agree that as you are accessing and using the Digital Content free of charge and (as set out in clause 6.6) the Digital Content is not legal advice or a substitute for professional advice (i) it is reasonable that our liability is limited to £1 in respect of the Digital Content and (ii) if you are unhappy with the balance of the parties' rights and obligations under this Agreement, you should use an alternative provider for the provision of your template documentation and any other Digital Content. This clause intends to: be fair and reasonable to all our members and associate members; and ensure all our full members and associate members are able to benefit from the Digital Content (which is a main purpose of us making the Digital Content available hereunder).

12.2 Nothing in this Agreement shall limit or exclude either party's liability for:

12.2.1 death or personal injury resulting from its negligence;

12.2.2 fraud or fraudulent misrepresentation; or

12.2.3 any other liability that cannot be excluded or limited by English law.

12.3 We are not legally responsible for any:

12.3.1 losses that were not foreseeable to you and us when the Agreement was formed;

12.3.2 losses that were not caused by any breach on our part;

12.3.3 business losses; or

12.3.4 losses to non-consumers.

12.4 Notwithstanding clauses 4.1, 4.4 and 6.6, you acknowledge and agree that the Digital Content (i) is only supplied for internal use by your business and (ii) has not been developed to meet your individual requirements.

12.5 The Digital Content is provided by us to our members and associates. We make no representations or warranties to you (or your employees, officers and contractors who access the Digital Content on your behalf) of any kind, express or implied, as to the operation of the Digital Content or the information, content or materials included in the Digital Content. Your employees', officers' and contractors' use of the Digital Content is governed by their relationship with you and this Agreement.

## **13. CONFIDENTIALITY**

13.1 Each party shall, during the term of this Agreement and thereafter, keep confidential all, and shall not use for its own purposes (other than the performance of its obligations or the exercise of its rights under this Agreement) nor without the prior written consent of the other disclose to any third party (except its professional advisors or as may be required by any law or any legal or regulatory authority) any, information of a confidential nature (including trade secrets and information of commercial value) which may become known to such party from the other party and which relates to the other party (whether before or after the date of this Agreement), unless that information is public knowledge or already known to such party at the time of disclosure, or subsequently becomes public knowledge other than by breach of this Agreement, or subsequently comes lawfully into the possession of such party from a third party. Each party shall use its reasonable endeavours to prevent the unauthorised disclosure of any such information.

13.2 This clause 13 shall survive the termination of this Agreement howsoever caused.

#### **14. THIRD PARTY RIGHTS**

No one other than a party to this Agreement has any right to enforce any term of this Agreement.

#### **15. VARIATION**

Except as set out in clause 1.3.2, no other variation of this Agreement shall be effective unless it is in writing and signed by the parties duly authorised representatives.

#### **16. DISPUTES**

16.1 We will try to resolve any disputes with you quickly and efficiently. If you are unhappy with the Digital Content you access, our service to you or any other matter, please contact us as soon as possible using the contact details set out at the top of this page.

16.2 The validity, construction and performance of this Agreement, and any claim, dispute or matter arising under or in connection with it or its enforceability (including non-contractual disputes or claims), will be governed by and construed in accordance with the law of England and Wales. Each party irrevocably submits to the jurisdiction of the courts of England and Wales over any claim, dispute or matter arising under or in connection with this Agreement.