

IM Asset Management Limited

General Terms and Conditions

- 1.1 Please ask us any questions you have about the risk warnings, our limitation of liability, or this Agreement generally, **before** you sign the ToB Letter.

Agreement is made between the person to whom the ToB Letter (as defined below) is addressed (“**you**”), and IM Asset Management Limited (“**we**” or “**us**”), together the “**Parties**”.

This Agreement is made up of:

- the terms of business letter addressed to you (“**ToB Letter**”)
- these General Terms and Conditions (“**General Terms**”) and
- any other agreements you have signed with us.

Our main business is the provision of investment management services. We are authorised and regulated by the Financial Conduct Authority of 25 The North Colonnade, Canary Wharf, London E14 5HS. We are listed on the Financial Services Register; our firm reference number is 402770.

Our company registration number is **05016348**. Our registered office is Riverside East, 2 Millsands, Sheffield, South Yorkshire, S3 8DT. This is our postal address in connection with this Agreement and for notices served under it. You may also serve notices on us by fax on 0114 272 4926 or by emailing finplanservices@irwinmitchell.com.

We are a subsidiary of Irwin Mitchell Holdings Limited (incorporated in Jersey, number FC031481) of which the law firm Irwin Mitchell LLP is another subsidiary.

- 1.2 This Agreement relates to the services that we will provide to you and how we charge you for those services.
- 1.3 **Please read carefully through the Risk Warnings enclosed with this Agreement.** The Risk Warnings provide important information about the risks that apply to any investments we make on your behalf.

- 1.4 Your attention is particularly drawn to clause 28 of this these General Terms which sets out the limits of our liability when providing services to you.

- 1.5 Please ask us any questions you have about the risk warnings, our limitation of liability, or this Agreement generally, **before** you sign the ToB Letter.

2 INTERPRETATION

The definitions and rules of interpretation in this clause apply in all parts of this Agreement:

- 2.1 a “**person**” includes a natural person, and a corporate or unincorporated body having separate legal personality;
- 2.2 clause, schedule and paragraph headings shall not affect the interpretation of this Agreement;
- 2.3 words in the singular shall include the plural and vice versa;
- 2.4 a reference to one gender shall include a reference to the other gender;
- 2.5 a reference to any party shall include that party's personal representatives, successors or permitted assigns;
- 2.6 a reference to a statute, statutory provision or subordinate legislation is a reference to it as it is in force from time to time, taking account of any amendment or re-enactment, provided that, as between the parties, no such amendment or re-enactment shall apply for the purposes of this Agreement to the extent that it would impose any new or extended obligation, liability or restriction on, or otherwise adversely affect the rights of, any party;
- 2.7 a reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision;
- 2.8 references to clauses and schedules are to the clauses and schedules of this Agreement unless stated otherwise.

3 YOUR STATUS

- 3.1 For the purposes of the FCA Rules, you will be categorised as a retail client. Categorisation as a retail client affords the maximum protection under the FCA rules. If you wish to be categorised differently, please inform us.
- 3.2 Our judgement as to your categorisation and other matters relevant to our services will be informed, amongst other things, by the information that you have provided to us concerning your financial circumstances, investment objectives and knowledge. It is therefore important that you inform us promptly of any material change to your circumstances or objectives. Failure to do so may result in the risk profile of your Discretionary Portfolio, or other investment portfolio, failing to match your underlying investment objectives.

4 CREDIT CHECKING

In connection with this agreement we may carry out a check with a licensed credit reference agency, which will retain a record of that search. The information may be used by financial institutions in assessing applications for credit by you and members of your household and for occasional debt tracing and fraud prevention purposes. This may affect your credit rating.

5 CLIENT IDENTITY

Before we can provide you with our services, we are required to verify your identity. We will use various electronic means (e-verification systems) to try to do this without requiring you to produce documents. This check may leave a "footprint" on your credit file but it will not affect your credit rating. If we are unable to adequately evidence your identity from e-verification systems, you will be asked to provide documents which prove your identity. We may conduct these checks throughout our relationship, not just at the beginning. We are required to do this by the Money Laundering, Terrorist Financing and Transfer of Funds Regulations 2017, which is designed to combat serious financial crime.

6 INVESTMENT FUND ADVISER OR MANAGER

- 6.1 Where we make investments on your behalf, we may, with your prior agreement, invest all or part into a collective investment scheme in relation to which we act as investment adviser or manager.
- 6.2 Where, if permitted under the FCA Rules, we receive a fee for acting as investment adviser or manager to the scheme we will promptly disclose to

you this fact, along with further details of the fee, and will waive any portfolio management fee chargeable on the portion of your funds invested in the scheme.

7 BROKERAGE ARRANGEMENTS AND ORDER EXECUTION

- 7.1 Subject to FCA Rules, we may execute your orders through a broker or another regulated person where the charges of that broker or other regulated person may be passed by us to you. When providing investment services we will not pay to or accept from any party i.e. broker or investment or insurance provider any fee or commission, or provide or receive from any party any non-monetary benefit. There are some exceptions to this rule where the fee, commission or non-monetary benefit is designed to enhance the quality of the service offered and does not impair our obligation to act honestly, fairly and professionally in your best interests. If allowable, where any such benefits are received in connection with the service being provided we will disclose these prior to providing investment services and where relevant on an ongoing basis.
- 7.2 We have implemented an Order Execution Policy which identifies the relevant execution factors of price, cost of transaction, speed of execution, likelihood of execution and size and complexity of the order. This policy will be reviewed on at least an annual basis. All entities used by us comply with an overarching best execution requirement when placing orders.
- 7.3 Please ask us any questions you have about our Order Execution Policy before you sign this Agreement. Unless you tell us otherwise, your signature of this Agreement confirms your consent to the policy as amended from time to time.
- 7.4 Any specific instructions you give may prevent us from taking the steps that we have designed and implemented in our Order Execution Policy to obtain the best possible result for the execution of those orders in respect of the elements covered by your instructions.

8 CONFLICTS OF INTEREST

- 8.1 A conflict of interest is a situation in which someone in a position of trust has competing professional and/or personal interests. Such competing interests can make it difficult to fulfil their duties impartially. A conflict of interest may exist even if no detriment, to one or more client, results from it.

- 8.2 We have established and implemented a Conflicts of Interest Policy, which sets out how we must seek to identify, prevent or manage all material conflicts of interests to ensure fair treatment of our customers. We will, wherever possible, avoid conflicts of interest arising between ourselves and our customers or between one customer and another. Where a conflict of interest cannot be avoided, we will manage the conflict and, where appropriate, we will make a disclosure to you and ask for your consent to proceed. In certain cases, we may decline to act for you or decline to carry out a transaction on your behalf.
- 8.3 As we do not, as a matter of policy, deal in investments on our own behalf or hold positions in investments, conflicts of interest are unlikely to arise between you and us.
- 8.4 Our full Conflicts of Interest Policy is available to you on request or it can be found on our website www.irwinmitchell.com. The policy sets the framework within which we operate and discloses the types of conflict that exist in our day to day business and the steps we have taken to mitigate them.
- 8.5 Our Order Execution Policy is applicable to services where we execute or transmit orders on your behalf. The Policy describes the factors we will take into account and the way in which we will deal with your order to avoid, mitigate and manage any potential conflicts and is available upon request or it can be found on our website: www.irwinmitchell.com.
- 8.6 IM Asset Management Ltd is the investment manager of four collective investment schemes, also known as “LF IM Investment funds”. If IM Asset Management Ltd is recommended as your DFM we may invest in any of these four funds. As the investment manager we will receive the fund management charge for these funds, however where your portfolio holds one or more of these funds the portfolio management fee is waived in respect of these holdings, thus removing any potential conflict that could arise when recommending and investing in those funds.

9 UNSOLICITED REAL TIME FINANCIAL PROMOTIONS

We may need, or wish, to communicate with you to invite you to enter into an investment, but may only do so with your specific agreement. By signing the ToB Letter you confirm that you are willing for us to communicate with you about investments, at reasonable times or hours, by telephone or in a meeting, unless you tell us otherwise.

10 REGISTRATION AND CUSTODY

- 10.1 Unless you enter into a separate agreement, all registerable investments purchased through us will be registered in your name and certificates where issued will be sent to you unless you give us written instructions to the contrary.
- 10.2 Where we provide services including safe custody, under a Discretionary Management Agreement or other arrangement we will arrange for your investments to be held by nominee companies. We may appoint third party custodians and your safe custody assets may be held under the nominee of a third party custodian or an appointed sub-custodian. The arrangements under which custody is held, including arrangements with third parties, will be disclosed to you in the Discretionary Management or other agreement that you enter into.
- 10.3 We will be responsible for exercising care and due diligence in the initial selection and ongoing monitoring of the third party custodians but will not be responsible for any acts or omissions or failure of the third party custodians. This means that if the third party defaults or becomes insolvent you may lose some or all of your assets, however, you may have some recourse with the Financial Service Compensation Scheme as set out in clause 20 of these General Terms.
- 10.4 If we hold registered securities in your own name within our safe custody, we will send you a statement of these securities once a year, having performed a reconciliation check. Any discrepancy will be investigated and any shortfall for which we are responsible will be made good as soon as is reasonably practical.
- 10.5 We reserve the right to realise any registered security held in safe custody for the completion of sales or for administrative purposes in order to meet any liability which you may have incurred with us including fees or charges, or any ad hoc payments. We will use reasonable efforts to contact you before we take such action.
- 10.6 We will retain all securities, deeds, wills and other documents indefinitely, either in the absence of your instructions to the contrary or until the termination of any client agreement between us.
- 10.7 We may cease to treat as safe custody assets any unclaimed custody asset balances belonging to you and held under our nominee or third party custodian arrangements, if we held the safe custody asset for at least 12 years and have not received instructions relating to that asset from or on behalf of you and provided that we have taken reasonable steps to trace you and return the safe custody asset. Where

we have taken appropriate steps to establish your most recent known contact details and we have written to you informing of our intention to do so, giving you not less than 28 days to respond, we may either liquidate the safe custody asset and pay away the proceeds or transfer the safe custody asset to a charity of our choosing.

- 10.8 In the event that you subsequently make a valid claim upon the safe custody assets, we undertake to pay to you a sum equal to the value of the safe custody asset at the time that it was liquidated or transferred.
- 10.9 We are required by the FCA to retain certain records for up to seven years after the end of our business relationship. We may choose to retain certain files and records for a longer period but do not undertake to do so.
- 10.10 We may use pooled nominee accounts in which our clients' holdings in a particular stock are aggregated and held by a third party. Where investments are registered in a pooled nominee account, this firm, rather than the company registrar, is responsible for maintaining records of individual clients' beneficial entitlements to ownership of their investment at any time. It is normal procedure to use shares in pooled accounts to complete share sale transactions. It is important that you understand that the effect of pooling is as follows:
- 10.10.1 individual entitlements may not be identifiable by separate certificates, (which would, in the absence of pooling, be evidence of your legal ownership of the shares), other physical documents or equivalent electronic record; and
- 10.10.2 if there are any losses or shortfalls due to the failure of a custodian of a pooled account, clients will share that loss in proportion to their original share of the investments in the pool.
- 10.11 If registerable investments are purchased through us, or where we provide safe custody services under any other agreement, and such investments or client money is subject to the law of a jurisdiction other than that of a EEA state, we will inform you of your rights to that investment or client money accordingly.

11 AGGREGATION

- 11.1 By signing the ToB Letter you agree that we may combine (“**aggregate**”) orders and transactions entered into on your behalf with those of other

clients and persons on whose behalf we may execute orders and transactions from time to time.

- 11.2 We will only aggregate orders and/or transactions if it is unlikely that such aggregation will work overall to your disadvantage. However the effect of aggregation may work to your disadvantage in relation to any particular order or transaction.

12 LIENS AND SECURITY INTERESTS

- 12.1 We can only grant “liens” or other security interests over your safe custody assets in very limited circumstances.
- 12.2 Where they do relate to services provided to you, we will tell you about the risks associated with them, and will use reasonable endeavours to make sure the arrangement (including the granting of security) is in your interests.

13 CLIENT MONEY AND UNCLAIMED BALANCES

- 13.1 Money that we hold on your behalf will be held as “client money” in accordance with the FCA Client Money Rules and will be held in a client money account with a bank or building society in the UK. Monies not required for settlement of transactions may be held on an interest bearing account. If interest is payable in accordance with the FCA’s Client Money Rules, cash deposits held by us on your behalf and available at immediate notice will earn interest at a rate of not less than the Bank of England’s base rate minus 2%, subject to the Bank of England’s base rate being 2% or higher. No interest will accrue where the Bank of England’s base rate is less than 2%. Details of interest rates in force from time to time will be supplied on request. Where applicable, interest will accrue daily and will be credited to the account on a monthly basis.
- 13.2 We may cease to treat as client money any unclaimed client money balances belonging to you and held in our client bank accounts if there has been no movement (excluding payments or receipts of charges, interest or similar items) on the relevant accounts for at least six years and we have made all reasonable efforts to trace you and return the balance. Where we have taken appropriate steps to establish your most recent known contact details and we have written to you informing you of our intention to do so, giving you not less than 28 days to respond, we may treat such money as no longer being client money.
- 13.3 In such circumstances, unclaimed balances may be paid to a registered charity of our choosing. In the event that you subsequently make a valid claim

upon the balance, we undertake to pay a sum equal to the balance paid away to charity.

- 13.4 If you enter into a separate Investment Management Agreement with us, the agreement will set out how the dividends and interest arising from the investments will be paid to you. Any such agreement may make provision for cash management services separate from the arrangements referred to in clause 29 below.

14 SETTLEMENT

We will arrange transactions for you on the basis of contractual settlement in most cases. This means that when we carry out a transaction for you, your account balance will reflect the cash proceeds and the investments relating to that transaction on the dealing date, although the cash proceeds of a sale order will only become available funds on the settlement date and the investments purchased will only be available for sale when actual settlement takes place. Where contractual settlement is not possible i.e. for a delayed trade, actual settlement may be offered.

15 VARIATION AND TERMINATION

- 15.1 We may amend these terms by written notification to you, and we must give you at least 14 days notice of such amendment. We may terminate the agreement by giving you not less than 14 days notice in writing.
- 15.2 You may, without prejudice to the completion of transactions already initiated, terminate the agreement at any time by notifying us in writing. On termination of this agreement by either party, we undertake to deliver your monies, and investments, to you, or to such other person as you may nominate but we reserve the right to charge a handling charge.
- 15.3 Termination will be without prejudice to all rights and obligations accrued prior to such termination and will not affect transactions already in process.
- 15.4 In the event of your death our discretionary powers will terminate immediately.
- 15.5 In the event of your death we will have a duty to continue to safeguard the portfolio assets until duly instructed concerning their disposal by your executor or other lawful representative of your estate; we will be entitled to make a reasonable charge for this service and to recover all reasonable expenses incurred.

16 ASSIGNMENT

- 16.1 You may not assign, transfer, mortgage, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under this agreement without prior written consent from us.
- 16.2 We may assign our rights and obligations under this agreement, on 30 days' written notice to you, to another party duly authorised in law to undertake the services described in this agreement.

17 TRANSFER OF BUSINESS

- 17.1 In the event that a transfer of business takes place, such that we transfer rights under this or other agreement with you to a third party and that client money is transferred under any such agreement, such client money will be transferred on terms which require the third party to return your transferred sums as soon as practicable at your request.
- 17.2 Under the terms of our agreement, you agree that we may transfer your client money to another person on the basis that:
- 17.2.1 the sums transferred will be held by the person to whom they are transferred in accordance with the client money rules for the client; or
- 17.2.2 if not held in accordance with clause 17.2.1 we will exercise all due skill, care and diligence in assessing whether the person to whom the client money is transferred will apply adequate measures to protect these sums.

18 TRANSFER OF CUSTODY ASSETS

In the unlikely event of the failure of the firm we will return any safe custody asset we hold on your behalf to you or transfer to another regulated entity in accordance with the FCA client assets rules for safekeeping.

19 COMPLAINTS

We hope that you will not have cause to complain about our services. However, if you have any complaints about the services provided by this firm, you can write, email or telephone us. We will deal with your complaint promptly and in accordance with the FCA rules. If we do not deal with your complaint to your satisfaction, you may be able to refer the matter to the Financial Ombudsman

Service. We will give you full details of how to do that when we respond to your complaint.

20 COMPENSATION

- 20.1 We are covered by the Financial Services Compensation Scheme. You may be entitled to compensation from the scheme if we cannot meet our obligations. This depends on the type of business and the circumstances of the claim. Most types of investment business are covered for 100% of the first £50,000. Deposits are covered for 100% of the FSCS deposit scheme limit in force, which at present is £85,000 per separately licensed deposit-taking institution. Please note the maximum level of compensation may change from time to time. Please also note the compensation arrangements differ in respect of cash we place on deposit in banks in other protective jurisdictions including the Republic of Ireland.
- 20.2 Further information about compensation arrangements is available from the Financial Services Compensation Scheme at: FSCS, 10th floor, Beaufort House, 15 St Botolph Street, London EC3A 7QU, by telephoning: 0800 678 1100 or 020 7741 4100 or visiting: www.fscs.org.uk.
- 20.3 As an additional precaution for your protection, we maintain substantial professional indemnity insurance which covers both our activities and those of our nominee companies.

21 CANCELLATION RIGHTS FOR PRODUCTS WE PROVIDE

- 21.1 As a result of this Agreement, and following our disclosure to you that a cancellation right will not apply to these products, you will not have any right to cancel Individual Savings Accounts (“ISAs”) we provide which contain only stocks and shares (i.e. non packaged product, non cash deposit ISAs).
- 21.2 Where any cancellation (cooling off) period will apply to any proposed investment in the Discretionary Portfolio notwithstanding our management of the portfolio, we shall provide you with information concerning that cancellation period in order to allow you to decide whether to proceed with the investment.
- 21.3 If you decide not to exercise any cancellation right, you will continue to be bound by the contract governing that individual product until that contract is terminated in accordance with its provisions.

22 CANCELLATION RIGHTS FOR DISTANCE CONTRACTS

- 22.1 Where you have had no face to face meeting with IM Asset Management Ltd employees during the course of discussion, negotiation and conclusion of this agreement, you have a 14 day cancellation period in which to cancel this initial agreement. That cancellation right does not apply to any individual transactions effected under this agreement with the exception of certain products which have their own cancellation arrangements. Cancellation will not result in the unwinding of transactions effected during the cancellation period.
- 22.2 The cancellation rights, the arrangements for exercising that right and the charges that may be levied upon exercise are confined to the beginning of the relationship and are separate from the termination arrangements which are set out in clause 15.
- 22.3 If you request IM Asset Management Ltd to begin providing services under this agreement during the cancellation period and you then exercise your right to cancel, you will be required to pay for the services we have provided, in accordance with the “About us, our services, advice and costs” document provided separately.

You may cancel this agreement, without giving any reason, by serving notice before the end of the 14 day cancellation period by post to IM Asset Management Ltd at Riverside East, 2 Millsands, Sheffield S3 8DT or by electronic means to finplanservices@irwinmitchell.com or by fax to 0114 272 4926.

23 CANCELLING THIRD PARTY PRODUCTS

- 23.1 Under FCA Rules, you may, under certain circumstances, have the right to cancel an agreement with a product provider, (for example, a life insurance company) or to withdraw your offer to enter into a contract with a product provider. These circumstances will normally arise in relation to packaged products, for example, life policies, unit trusts or interests in an investment trust savings scheme.
- 23.2 Where you cancel a contract so that we must refund any commission or other payment to a product provider, we retain the right to invoice you for an amount equal to the amount we have had to refund. This will not apply if you cancel the contract in accordance with your rights in the period allowed by the product provider’s cooling off notice. The amount recoverable and the timeframe over which it is recoverable are dependent on the product. We

will provide you with this information in respect of each applicable product we include in your Discretionary Portfolio.

- 23.3 If you cancel a product provided by a third party, you must also pay any other reasonable costs and losses we have suffered because of that cancellation. For the avoidance of doubt, such costs and losses may include the reasonable costs of any advice given to you, which will be calculated at the hourly rate of the person who gave you the advice, and clearly set out to you before any charge is made.
- 23.4 Nothing in this Agreement affects your statutory cancellation rights in relation to any investments you may hold, whether provided by us or otherwise.

24 OTHER CANCELLATION RIGHTS

- 24.1 Your statutory cancellation rights relating to products other than the services referred to in clauses 21, 22 and 23 are unaffected by this letter.
- 24.2 Under FCA rules, you may, under certain circumstances, have the right to cancel an agreement with a product provider, for example, a life insurance company or to withdraw your offer to enter into a contract with a product provider. These circumstances will normally arise in relation to packaged products, for example, life policies, unit trusts or interest in an investment trust savings scheme. We will inform you of your cancellation rights for any product we recommend along with any other early termination rights and penalties.
- 24.3 Where you cancel a contract so that we must refund any payment to a product provider, we may invoice you for an amount equal to the amount we have had to refund. This will not apply if you cancel the contract in accordance with your rights in the period allowed by the product provider's cooling off notice. The amount recoverable and the timeframe over which it is recoverable are dependent on the product. If we have given you advice on the product, we reserve the right to charge a fee based on the time spent on this advice and this will be calculated on the hourly charging rate of the person who gave you the advice.
- 24.4 You have the right to cancel any on-going advice services, as described in the "About us, our services, advice and costs" document "Your payment options", at any time without penalty. This can be done by notifying us in writing and will take effect from the date of receipt. Please note we do reserve the right to charge you for services we have provided before cancellation.

25 REPORTING TO YOU

- 25.1 We will produce a valuation of your investments we manage or advise on under this Agreement at three monthly intervals.
- 25.2 We will advise you of transactions arranged on your behalf, by delivery of a three monthly report which details all sales and purchases during the period. Where we transact investments outside of a discretionary agreement you have with us contract notes will be sent to you no later than the business day following the date of the transaction, or no later than the business day following the receipt of information about that transaction, whichever is applicable.
- 25.3 If you require a report more frequently than three months we can consider this upon request.
- 25.4 At least annually we will also set out a summary of the cost and charges applicable to your investment portfolio, including the underlying costs of any collective investment schemes you may hold, and illustrate the effect of those charges on the value of your investment portfolio.

26 DATA PROTECTION

- 26.1 In order that we may provide you with services, we need to record and maintain certain factual information on your personal and financial circumstances which we may hold in hard copy and electronic form. We also need to record and maintain similar information in respect of any trustees or beneficiaries under any trust that we administer. We will use your information in accordance with our Privacy Notice, otherwise referred to as a Fair Processing Notice, which you can access in the Privacy and Security section of our website at www.irwinmitchell.com or you can contact us on 0370 1500 900 or email to finplanservices@irwinmitchell.com to request a copy.
- 26.2 The information we hold about you is confidential and will not be used for any purpose other than in connection with the provision of our services. Information of a confidential nature will be treated as such provided that such information is not already in the public domain. We will only disclose your information to third parties as required by law or as otherwise set out in our Privacy Notice. Broadly these are the following circumstances:
- 26.2.1 where required by law or if requested by any regulatory authority including reporting to HMRC in relation to UK tax matters or to enable HMRC to meet its own obligations

under agreements with other jurisdictions, or exchange having control or jurisdiction over us;

- 26.2.2 to investigate or prevent fraud, money laundering or other illegal activity;
 - 26.2.3 in connection with the provision of services by us to you;
 - 26.2.4 for purposes ancillary to the provision of services or for the administration of your accounts or for purposes ancillary to such administration, including, without limitation, for the purposes of credit enquiries or assessments;
 - 26.2.5 where you were introduced to us by a third party, we may disclose information that we hold about you to that third party unless you advise otherwise;
 - 26.2.6 if it is in the public interest to disclose such information; or
 - 26.2.7 at your request or with your consent.
- 26.3 In circumstances where we do not provide a service which we identify could benefit you, we may pass details to another company within the same group as us. We will tell you about this before we do this.
- 26.4 If you contact our office via the telephone, or if we telephone you, the call may be recorded. The purpose of recording calls is to evidence a business transaction, to ensure the firm complies with regulatory procedures and to monitor quality standards are being met. The recording of calls with you will be available on your request, for a period of seven years after the recording was made.
- 26.5 Where you are a trustee, or acting in a representative capacity of another person, you agree to advise any beneficiary of the trust or that person that their personal information will be dealt with on these terms, as if each reference to “you” or “your” in this section is a direct reference to the beneficiary or person. Unless you inform us otherwise, by disclosing any personal information to us about a beneficiary or other person you are acting on behalf of, we will assume that you have obtained consent to enable the use of such information on these terms.
- 26.6 We will typically retain information for a period of seven years after the end of our business relationship, although there are some important documents that we are required to keep indefinitely.

We generally retain documents for regulatory reasons and to ensure our business records are adequate to maintain the requisite levels of insurance to protect our clients.

27 LIABILITY FOR MARKET LOSS

You recognise that, just as investment values may rise, so may they fall and you will not hold this firm liable for any loss (including any consequential loss) suffered through the operation of market forces or through the implementation of reasonable advice given, or decisions taken by this firm in good faith in accordance with the terms of the agreement between us.

28 LIMITATION OF LIABILITY

28.1 This clause 28 sets out our entire financial liability to you in respect of:

28.1.1 any breach of this Agreement by us, our employees, agents or subcontractors;

28.1.2 any use made by you of our services or any part of them; and

28.1.3 any representation, statement or tortious act or omission (including negligence) arising under or in connection with our services or this Agreement.

28.2 Nothing in this Agreement limits or excludes our liability for:

28.2.1 death or personal injury resulting from negligence; or

28.2.2 any damage or liability incurred by you as a result of wilful default or negligence by us, our employees or our agents; or

28.2.3 any damage or liability incurred by you as a result of fraud or fraudulent misrepresentation by us, our employees or our agents; or

28.2.4 any obligations we have to you as our customer under the FCA Rules or regulatory system or the Financial Services and Markets Act 2000. Our liability is uncapped for any customer complaint processed by the Financial Ombudsman Service.

28.3 Subject to clause 28.2:

28.3.1 We shall not be liable for:

- loss of profits, loss of use of profits, business, revenue, goodwill; or
- loss of or corruption of data or information belonging to you or a third party; or
- loss or damage to business or reputation; or
- loss or damage arising from your failure to fulfil your responsibilities or any matter under your control or the control of a third party; or
- loss or damage arising from us acting in accordance with your instructions or those of your officers, employees, agents or third parties engaged by you; or
- any loss (including any indirect loss) suffered through the operation of market forces or through the implementation of reasonable advice given, or decisions taken, by this firm in good faith; or
- any loss (including any indirect loss) whereby an investment that we have purchased for you in good faith (or decided not to sell for you) may have declined in value, or an investment that we have sold for you in good faith (or decided not to buy for you) may have risen in value; or
- any act, omission or default of any third party, whether or not appointed by us, including (but not limited to) market makers, brokers and custodians, but excluding any third parties we control; or
- any special, or indirect loss (including direct or indirect loss of profit), however caused, nor for any loss connected to the timing of a transaction.

28.3.2 the amount of our liability for any claim you make in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise arising in connection with the performance, or contemplated performance, of our services will be no more than the value of the transaction or instrument to which the claim relates plus interest at 2% above the Bank of England base rate, starting from when the claim arises up until the point when we pay our liability amount.

29 CASH MANAGEMENT

29.1 Monies we hold for you, including any monies received by way of dividends or interest, will in the ordinary course be held in a client trust account with a bank or building society in the UK (but see clause 20.1 above, concerning your money when overseas). Monies not required to complete transactions may be held on an interest bearing account. Irrespective of whether interest is payable in accordance with the FCA's Client Money Rules, cash deposits held by us on your behalf and available at immediate notice will earn interest at a rate of not less than the Bank of England's base rate minus 2%, subject to the Bank of England's base rate being 2% or higher. No interest will accrue where the Bank of England's base rate is less than 2%. Details of rates applying from time to time will be supplied on request. Interest will accrue daily and will be credited to the account on a monthly basis. In certain circumstances, client money may be held by a third party such as a custodian, exchange, clearing house or intermediate broker in a client money transaction account in connection with the settlement of investment transactions or receipt of dividends.

29.2 We may cease to treat as client money any unclaimed client money balances belonging to you and held in our client bank accounts if there has been no movement (excluding payments or receipts of charges, interest or similar items) on the relevant accounts for at least six years and we have made all reasonable efforts to trace you and return the balance. Where we have taken appropriate steps to establish your most recent known contact details and we have written to you informing you of our intention to do so, giving you not less than 28 days to respond, we may treat such money as no longer being Client Money. In such circumstances, unclaimed balances may be paid to a registered charity of our choosing. In the event that you subsequently make a valid claim upon the balance, we undertake to pay a sum equal to the balance paid away to charity.

30 GOVERNING LAW, JURISDICTION AND LANGUAGE

30.1 This Agreement and any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

30.2 The Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or their subject

matter or formation (including non-contractual disputes or claims).

30.3 The language in which this Agreement is supplied and in which we will communicate with you during the course of the contract is English.

31 INSTRUCTIONS AND NOTICES

31.1 Please ask us any questions you have about the risk warnings, our limitation of liability, or this Agreement generally, **before** you sign the ToB Letter. We will accept and acknowledge receipt of instructions from you by letter, telephone, fax, e-mail or in person. We reserve the right to require written confirmation of your instructions. Our normal practice is to accept instructions only from you or (at our discretion) from a person or persons formally nominated by you in writing in such form as we may require

31.2 A notice given to a party under or in connection with this Agreement:

31.2.1 shall be in writing;

31.2.2 shall be sent to the party for the attention:

- in the case of us, of the person, at the address, e-mail address or fax given in clause 1.1;
- in the case of you, of the person, at the address or e-mail address set out in the ToB Letter or as otherwise agreed with you in writing from time to time; and

31.2.3 shall be:

- delivered personally; or
- sent by pre-paid first-class post or recorded delivery; or
- (in the case of a notice served only on us) sent by fax; or
- sent via e-mail.

31.3 If a notice has been properly sent or delivered in accordance with this clause 31, it will be deemed to have been received as follows:

31.3.1 if delivered personally, at the time of delivery; or

31.3.2 if sent by pre-paid first-class post or recorded delivery, 9 am on the second Business Day after posting; or

31.3.3 if sent by fax or e-mail, at the time of transmission.

31.4 For the purposes of this clause:

31.4.1 all times are to be read as local time in the place of deemed receipt; and

31.4.2 if deemed receipt under this clause is not within business hours (meaning 9 am to 5.30 pm Monday to Friday on a day that is not a public holiday in the place of receipt), the notice is deemed to have been received when business next starts in the place of receipt.

31.5 To prove service, it is sufficient to prove that:

31.5.1 if sent by pre-paid first-class post, the envelope containing the notice was properly addressed and posted; or

31.5.2 if sent by fax or e-mail, the notice was transmitted by fax to the fax number of the party or by e-mail to the e-mail address of the party.

32 AMENDMENTS

32.1 We may amend the terms of this Agreement, in order to:

32.1.1 comply with legal, tax or regulatory requirements;

32.1.2 correct any errors, omissions, inaccuracies or ambiguities;

32.1.3 reflect a change in market conditions or the overall cost of providing our services to our customers;

32.1.4 reflect a change in technology to cover a development or change in the services or facilities we provide; or

32.1.5 reflect developments in market practices

32.2 Any amendment that reflects a change of applicable law or regulation may take effect immediately if the law requires this.

32.3 If we decide to amend the terms of this Agreement we will write to you and, subject to clause 32.2, give you at least fourteen days notice before any amendment takes effect.

32.4 No variations to this Agreement are effective unless made in writing.

33 FORCE MAJEURE

33.1 A party shall not be in breach of this Agreement, nor liable for any failure or delay in performance of any obligations, or any interruption of service, under this Agreement arising from or attributable to acts, events, omissions or accidents beyond its reasonable control other than where it has caused it, including but not limited to any of the following (each a “**Force Majeure Event**”):

- 33.1.1 acts of God, including but not limited to fire, flood, earthquake, windstorm or other natural disaster; or
- 33.1.2 war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions; or
- 33.1.3 terrorism, terrorist attack, civil war, civil commotion or riots; or
- 33.1.4 any change in the law or its interpretation prohibiting a party from performing its obligations under this agreement; or
- 33.1.5 act of government or state, including political crisis; or
- 33.1.6 labour disputes of any nature; or
- 33.1.7 the failure of any relevant stock exchange, clearing house, market counterparty and/or broker to perform its obligations.

33.2 If a Force Majeure Event prevails for a continuous period of more than six months, either party may terminate this Agreement by giving seven days’ written notice to the other party. On the expiry of this notice period, this Agreement will terminate. Such termination shall be without prejudice to the rights of the parties in respect of any breach of this Agreement occurring prior to such termination.

34 SEVERANCE

34.1 If any provision (or part of any provision) of this Agreement is found by any court or other authority of competent jurisdiction to be invalid, illegal or unenforceable, that provision or part-provision shall, to the extent required, be deemed not to form part of this Agreement, and the validity and enforceability of the other provisions of this Agreement shall not be affected.

34.2 If a provision (or part of any provision) of this Agreement is found illegal, invalid or unenforceable,

the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

35 THIRD PARTY RIGHTS

No person other than a party to this Agreement, and their respective successors and permitted assigns, shall have any rights to enforce any term of this Agreement. A person who is not a party to this Agreement may not enforce this Agreement under the Contracts (Rights of Third Parties) Act 1999.