

## ABOUT US

We, **Fidus Investments Cyprus Limited**, a company incorporated and registered in the Republic of Cyprus with company registration number HE 355918 (hereinafter “**Fidus**” or the “**Company**”) is an investment services firm authorized and regulated by the Cyprus Securities and Exchange Commission (“CySEC”) under license number 326/17. Details of the authorization and investment and ancillary services which the Company is able to provide and of the financial instruments in which the Company is able to trade on the basis of its authorization can be found at <http://www.cysec.gov.cy/en-GB/entities/investment-firms/cypriot/42932/>.

The Company’s offices are located at 16 Kennedy Avenue, 1087 Nicosia, Cyprus.

## THESE TERMS

These General Investment Services Terms and Conditions (hereinafter “**these terms**” or “**General Investment Services Terms and Conditions**”) should be read in conjunction with the following documents which the Client shall read understand and accept before entering into an agreement with the Company.

These General Investment Services Terms and Conditions should be read in conjunction with and apply together with any Special Terms and Conditions which may apply to trading on any specific Electronic Trading Platform which the Company makes available (“**Special Terms and Conditions**”), and in the event of any conflict between such Special Terms and Conditions and these General Investment Services Terms and Conditions and/or any addendum or annex hereto, the provisions of the Special Terms and Conditions shall prevail. Acceptance of these terms includes the acceptance of all the other documents posted on the Company’s website which the Client must expressly accept online through the Company’s client portal, prior to engaging in any electronic trading activity with the Company, which include but are not limited to:

- **Client Categorization Policy** This document contains details regarding classification of Clients as Retail Clients, Professional Clients or Eligible Counterparties, the protection rights afforded to the Clients based on their classification in one of the above categories, as well as information on how a Client can submit a request to the Company for different categorisation.
- **Order Execution Policy** This document provides details regarding execution of the Client’s orders and any obligations to achieve the best possible result for the Client when executing orders.

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- **Privacy and Personal Data Protection Policy** In this document the Company sets out rights in relation to confidentiality and personal data protection, including the Client's right to access personal data held and processed by the Company and details regarding the processing of the Client's personal data.
- **Conflicts of Interest Policy** Under the legal and regulatory framework to which the Company is subject, the Company is required to manage or disclose situations of conflicts or potential conflicts of interest. In this document, important conflicts or potential conflicts are summarized, taking into account the services which the Company provides to the Client and the Company's business model.
- **Complaint and Dispute Handling Policy** This document describes the procedures set out by the Company for addressing promptly, effectively and efficiently any complaints received by its Clients and for handling any disputes arising.
- **Risk warnings and disclosures** The Company sets out important risk warnings regarding the services which the Company offers to the Client. If the Client does not understand any part of the Risk Warnings set out on the Company's website (<https://www.fidusinvestments.eu/disclosures>), then the Client shall obtain independent advice before agreeing to it and to the terms of the Agreement.

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## **BANNED JURISDICTIONS AND LEGAL AGE**

### **Banned Jurisdictions**

The Company reserves the right and is entitled to, at any time, and upon its sole discretion, to restrict offering its services to certain jurisdictions and consider them as banned countries in terms of engagement with the potential clients.

Currently the Company does not accept new clients and/or the opening of new accounts from the following jurisdictions: 'Algeria', 'Canada', 'Islamic Republic of Iran', 'Iraq', 'Sudan', 'Syrian Arab Republic', 'North Korea', 'United States of America', 'North Cyprus', 'Zimbabwe', 'Cuba', 'South Sudan', 'Myanmar (Burma)', 'Yemen'

The aforementioned list of countries is non-exhaustive and the updated list of banned countries, is subject to alteration at any time the Company deems proper upon its sole discretion. Changes will be effected in accordance with the provisions of these terms.

This document does not constitute an offer on the part of the Company or any member of the Group to provide any services to persons under the age at which they can enter into contracts which are binding on them or who are located in "Banned Jurisdictions" or in any jurisdiction in which the solicitation of clients and the provision of the services provided for hereunder, would be illegal.

### **Legal Age**

The Company's services and products traded are only available to individuals who are at least 18 years old or otherwise at an age at which contracts which they enter into are binding on them in the jurisdiction in which they are located.

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## Investment Services Terms and Conditions

### 1. Definitions

“**these terms**” means the terms and conditions set out herein.

“**Act of Insolvency**” means bankruptcy where the Client is a natural person, or where the Client is a corporate entity, any of the following:

- (i) the passing of a resolution for the voluntary winding up (unless for the purposes of corporate reconstruction or amalgamation in respect of which the Company has given its prior written approval);
- (ii) the presentation or filing of a petition for winding up or alleging bankruptcy or insolvency or seeking any reorganization, arrangement, composition or similar relief;
- (iii) the taking of any steps for the making of an administration order;
- (iv) the appointment of a liquidator, trustee, receiver, administrator or similar officer over any of the Client’s assets;
- (v) the calling of a meeting of creditors in relation to any Client assets;
- (vi) seeking, consenting to or acquiescing in the appointment of a trustee, receiver or administrator over any Client assets;
- (vii) making a general assignment for the benefit of, or entering into a reorganization, arrangement or composition with, creditors of the Client;
- (viii) becoming insolvent or inability to pay debts, failing or admitting inability generally to pay debts as they become due;
- (ix) the occurrence in any other jurisdiction of any procedure equivalent, analogous or similar to (i) to (viii); or
- (x) where the Client is the trustee of a trust, the Client being unable to pay debts incurred in that capacity out of the assets of the trust.

“**Account**” means the trading account the Client holds with the Company.

“**Associated Company**” shall mean a company under common ownership or control with the Company.

“**Authorized Representative**” the persons appointed by the Client pursuant to the Authorized Representative Form (Appendix 1 to the Investment Services Agreement).

“**Business Day**” means a day (other than a Saturday or Sunday) on which banks are open for general business in the Republic of Cyprus. “**Business Hours**” means 9:00 am to 5:00 pm local time in the Republic of Cyprus.

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“**Client**” is the person defined in the Investment Services Agreement entered into with the Company.

“**Company**” shall mean Fidus Investments Cyprus Limited, a company incorporated and registered in the Republic of Cyprus with company registration number HE 355918 and authorized and regulated by CySEC.

“**Complex Financial Instruments**” means instruments which are not considered to be non-complex financial instruments under the Law and the Directives issued pursuant thereto by CySEC.

“**Corporate Action**” means the occurrence of any of the following in relation to the issuer of any relevant underlying share or equity:

- a) any rights scrip bonus capitalization or other issue or offer of shares/equities of whatsoever nature or the issue of any warrants, options or the like giving the rights to subscribe for shares/equity;
- b) acquisition or cancellation of own shares/equity;
- c) reduction sub division consolidation or reclassification of share/equity capital;
- d) any distribution of cash or shares;
- e) a take-over or merger offer;
- f) amalgamation or reconstruction affecting the shares/equities concerned; and
- g) any other event which has a diluting or concentrating effect on the market value of the underlying share/equity.

“**Customer Investment Questionnaire**” shall mean the document attached as Appendix 2 to the Investment Services Agreement.

“**CySEC**” means the Cyprus Securities and Exchange Commission.

“**Electronic Service**” means an internet trading service offering Clients access to information and trading facilities, via an internet service, a WAP service and/or an electronic order routing system.

“**Electronic Trading Platform**” means an electronic platform which the Company makes available to the Client for the purposes of effecting Transactions with the Company.

“**Eligible Counterparty**” means a Client categorized by the Company as an eligible counterparty in accordance with the provisions of the Law.

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**“Equity”** means the balance of the Client’s Account with the Company as adjusted by the addition of any profit and subtraction of any loss, resulting from the Client’s open positions under the Client’s Transactions with the Company.

**“Exchange”** means any exchange, regulated market, multilateral trading facility, trading system or association of dealers in any part of the world (and includes a successor body) on or through which financial instruments or assets underlying, derived from or otherwise related directly or indirectly to financial instruments are bought and sold.

**“FATCA”** is an abbreviation for “Foreign Account Tax Compliance Act” and refers to the relevant sections of the United States Internal Revenue Code as may be amended or replaced and includes any US or other guidance, decree or other measures taken by the US or the EU or any other government or body in the implementation of these provisions and includes, without limitation, any intergovernmental agreement, treaty, law, regulation, decree, directive or guidance issued for the purposes of or in relation to compliance with the relevant sections of the United States Internal Revenue Code.

**“Financial Instrument”** means transferable securities, money-market instruments and units in collective investment undertakings and other financial instruments as these are defined in Part III of the First Appendix of the Law.

**“General Terms and Conditions”** means these terms.

**“Intellectual Property Rights”** shall mean copyrights, (including rights in computer software), patents, trademarks, trade names, service marks, business names (including internet domain names), design rights, database rights, semi-conductor topography rights, rights in undisclosed or confidential information (such as know-how, trade secrets and inventions (whether patentable or not), and all other intellectual property or similar proprietary rights of whatever nature (whether registered or not and including applications to register or rights to apply for registration) which may now or in the future subsist anywhere in the world.

**“Investment Services Agreement”** means the agreement entered into between the Company and the Client for the provision of Services on the basis of and in accordance with the provisions set out therein and these terms.

**“Investment Services and Activities and Regulated Markets Law”** or **“Law”** means Law 87(I)/2017 as from time to time amended or replaced.

**“Margin”** means the funds required for maintaining the Client’s positions under all Transactions collectively, at the relevant point in time.

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“**Margin Level**” means the ratio of Equity to Margin (Equity/Margin).

“**Personal Data**” shall have the meaning given to them by the EU GDPR i.e. any information relating to an identified or identifiable natural person (“data subject”), which is defined as a natural person who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that person.

“**Politically Exposed Persons**” or “**PEPs**” are the natural persons who are or have been entrusted with prominent public functions in the republic of Cyprus or in another country and their immediate close relatives and persons known to be close associates of such persons.

For the purpose of the above definition:

the term ‘prominent public function’ means any of the following public functions:

- i. heads of State, heads of government, ministers and deputy or assistant ministers;
- ii. members of parliaments or of similar legislative bodies;
- iii. members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances;
- iv. members of courts of auditors or of the boards of central banks;
- v. ambassadors, chargé d'affaires and high-ranking officers in the armed forces;
- vi. members of the administrative, management or supervisory bodies of State-owned enterprises;
- vii. directors, deputy directors and members of the board or equivalent function of an international organization;
- viii. mayors.

the term “immediate close relatives of a PEP” includes the following natural persons:

- i. the spouse or a person considered to be equivalent of a spouse of a PEP;
- ii. the children and their spouses or persons considered to be equivalent of a spouse of a PEP;
- iii. the parents of a PEP.

The term “persons known to be close associates of a PEP” means natural persons:

- i. who are known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a PEP;
- ii. who have sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the de facto benefit of a PEP.

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**“Professional Client”** means a Client categorized by the Company as a professional client in accordance with the provisions of the Law.

**“Retail Client”** is any Client who is not a Professional Client.

**“Sanctions”** means the Specially Designated Nationals and Blocked Persons list maintained by OFAC, the Consolidated List of Financial Sanctions Targets and the Investment Ban List maintained by Her Majesty's Treasury of the United Kingdom, or any similar list maintained by, or a public announcement of a Sanctions designation made by (i) the Security Council of the United Nations; (ii) the United States of America; (iii) the European Union; (iv) the member states of the European Union; and (v) the governments and official institutions or agencies of any of paragraphs (i) to (iv) above, each as amended, supplemented or substituted from time to time.

**“Services”** means the investment and ancillary services provided to the Client by the Company.

**“Securities Account”** means the account opened in the name of the Client in relation to the Services being the subject matter of these terms.

**“System”** means all computer hardware and software, equipment, network facilities and other resources and facilities needed to enable the Client to use an Electronic Service.

**"Tax"** means any tax, levy, impost, duty or other charge or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same) wherever and whenever imposed including value added taxes, stamp and other documentary taxes and Exchange, Clearing House, regulatory and industry levies.

**“Transaction”** means a future, option, contract for differences, spot or forward contract of any kind in relation to any Financial Instrument or a combination of Financial Instruments.

**“US Reportable Persons”** for the purposes of FATCA, a US Reportable Persons is: a US citizen (including dual citizen), a US resident alien for tax purposes, a domestic partnership, a domestic corporation, any estate other than a foreign estate, any trust if:

- a) a court within the United States is able to exercise primary supervision over the administration of the trust
- b) one or more United States persons have the authority to control all substantial decisions of the trust, and any other person that is not a foreign person.

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## **2. These terms**

- 2.1 The Company shall only provide Services in jurisdictions where this is permitted. These terms are not intended to be distributed in jurisdictions where distribution of these terms is prohibited by the local legislative or regulatory framework.
- 2.2 These terms do not constitute an offer by the Company to any potential client and receipt of these terms by any person/entity should not be considered as an offer. The Company shall accordingly not be liable in any way for any refusal to provide Services to any person/entity with whom the Company has not entered into an Investment Services Agreement.

## **3. Scope**

- 3.1 These terms govern the relationship of the Company with the Client in relation to the Services agreed to be provided by the Company to the Client.

## **4. Additional Liability**

- 4.1 The Client acknowledges that it has received, read and understood the risk warnings relevant to the type of financial instruments as set out in the Risk warnings and disclosures published in the Company's website (<https://www.fidusinvestments.eu/disclosures>). Certain financial instruments entail or may entail contingent liability. The Client hereby undertakes that in cases where such contingent liability arises, it shall make such payment of funds or delivery of financial instruments as appropriate.
- 4.2 In cases of dealing in Financial Instruments entailing contingent liability, the Client may be required to provide and shall provide, either at the outset of the transaction or subsequently, a deposit of cash or financial instruments as collateral for potential or unrealized losses. The value or amount of any such deposit shall be determined by the Company having regard to, without limitation, the movement of the market price of the underlying financial instruments.

The Client acknowledges that in providing the Services, the Company may enter into transactions which commit the Client to underwrite, sub-underwrite or similar obligations in connection with a new issue, offer for sale, rights issue, takeover or similar transaction.

## **5. Legislative Framework**

- 5.1 The Company is subject to:

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- i. the laws, rules and regulations applicable in the Republic of Cyprus;
- ii. any directives, circulars or guidance notes issued by CySEC;
- iii. directives and regulations issued by the European Parliament and the Council of the European Union.

and in certain instances, may additionally be required to implement:

- iv. guidelines issued by the European Securities and Markets Authority (“ESMA”) and of the Joint Committee of the European Supervisory Authorities (“ESAs”);
- v. laws, rules and regulations of any country other than the Republic of Cyprus;
- vi. rules, regulations and by-laws of any relevant Exchange, clearing institution, self-regulating organizations or multilateral trading facility; and anysa
- vii. recommendations and reports issued by European organizations, such as MONEYVAL and IMOLIN or international organizations, such as FATF;
- viii. sanctions and restrictive measures imposed by International or European organizations such as, but not limited to the UN Security Council Committees, the OFAC Sanctions List and the EU Common Foreign and Security Policy (CFSP)

as these may be amended or supplemented from time to time, collectively referred to as “**Applicable Provisions**”.

- 5.2 In providing Services, the Company shall comply at all times with the obligations deriving from the Applicable Provisions.
- 5.3 The Services to be provided will, at all times, be in compliance with and to the extent permitted by the Applicable Provisions as well as with the applicable and accepted market practice.
- 5.4 In case of any conflict between the provisions of these terms and the Applicable Provisions, the latter shall prevail.
- 5.5 Nothing in these terms shall oblige the Company to act in a way which it reasonably believes that will cause an actual or potential breach of the Applicable Provisions and/or which will cause the Company to be in actual or potential breach of any agreement to which it is a party.
- 5.6 The Client acknowledges and accepts that any action taken by the Company on its behalf shall be binding on the Client and that the Company may take such action as it deems to be reasonably necessary in order to ensure compliance with the Applicable Provisions and/or accepted market practice.

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5.7 No liability shall arise against the Company for any act or omission of the Company pursuant to the provisions of this clause.

## **6. Basis of Dealing**

6.1 The Company shall deal with the Client on the basis of an agent-principal relationship, even in cases where the Client discloses to the Company that it is acting as an agent or trustee on behalf of a beneficiary and regardless of whether the Client has disclosed to the Company the identity of such principal or beneficiary. No liability and no fiduciary obligations shall arise against the Company vis-à-vis any such principal or beneficiary.

6.2 In providing Services to the Client, the Company may be acting as agent, principal or as a combination of both and may arrange for execution of any client order or may hold Financial Instruments as custodian through any third party in accordance with the provisions of clause 15 "Third Parties" below.

6.3 Where the Company is required by the Applicable Provisions to act in the capacity of agent in executing orders on any Exchange where the Company cannot act as a principal, the Client undertakes to sign and deliver to the Company any such documents as the Company may require for this purpose.

## **7. Disclosures**

7.1 The Client acknowledges and accepts that in cases where the Company is required to do so under the Applicable Provisions and/or applicable and accepted market practice, or where this is required by any counterparty or service provider of the Company through which the Company makes available an Electronic Trading Platform or through which the Company provides Services to the Client, the Company may disclose to such parties information relating to the Client and/or the Services provided and/or Transactions carried out with or for or on behalf of the Client and the Client shall provide to the Company for this purpose any information which the Company deems to be reasonably necessary.

7.2 Such disclosures shall be made by the Company for the purposes of fulfilling its contractual obligations, its obligations under the Applicable Provisions, for the purpose of enabling such counterparty or service provider to comply with their obligations under the laws and regulations which apply to them and for the purposes of satisfying the requirements of any Exchange.

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- 7.3 In cases where direct disclosure by the Client is required to be made to any Exchange, clearing house or regulatory or governmental authority, or to any service provider of the Company through which the Company makes available an Electronic Trading Platform or through which the Company provides Services to the Client, then the Client shall be responsible for and shall proceed in making, such disclosure.
- 7.4 Without prejudice to the generality of the above, in cases where any counterparty or service provider of the Company through which the Company makes available an Electronic Trading Platform or through which the Company provides Services to the Client makes an enquiry in respect of any Transaction of the Client, or where an Exchange or any regulatory body or other competent authority makes an enquiry in respect of any Transaction of the Client, the Client undertakes to co-operate with the Company in promptly supplying such information and take or refrain from taking such action as the Company deems reasonably necessary in connection with such enquiry.
- 7.5 Disclosures required to be made pursuant to this clause 7 “Disclosure” shall not be made for marketing purposes unless the Client specifically consents to this in advance.

## **8. Authorized Representatives**

- 8.1 The Authorized Representatives appointed by virtue of Appendix 1 to the Investment Services Agreement may only be increased, reduced or replaced by the Client submitting an amended Authorized Representative Form. Any such amendment in relation to the Authorized Representatives shall only take effect once it is effectively communicated to the Company in accordance with clause 44 “Notices” below and provided that all due diligence documentation required by the Company in relation to these persons for the purpose of compliance with its “know your customer” obligations is provided in a form and content acceptable to the Company. A duly completed and signed Customer Investment Questionnaire in the form of Appendix 2 to the Investment Services Agreement must be submitted to the Company by each newly appointed Authorized Representative empowered by the Client to give trading instructions.
- 8.2 No liability whatsoever shall arise on the part of the Company for accepting any trading instructions by any Authorized Representative authorized by the Client to give trading instructions, unless the termination of such authority is notified to the Company in accordance with the provisions of clause 44 “Notices” below prior to the relevant instruction being given, and the Client undertakes to keep the Company fully indemnified in the case if any direct or indirect, actual or contingent loss resulting from failure of the Client to notify the Company of such termination of authority.

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**9. Investment Advice and Suitability**

9.1 The Company does not currently offer the investment services of investment advice or portfolio management. The Client acknowledges and agrees that the Services offered pursuant to these terms shall be on an execution only basis. No statement, act or omission of the Company or any person representing the Company shall be deemed to constitute investment advice, a personal recommendation or advice on the merits of a transaction. Any news, prices, opinions and any other information which may be provided to the Client are simply provided to enable the Client to make its own investment decisions and do not constitute personal investment advice.

9.2 The Client hereby represents and undertakes that it has access to independent financial and legal advice or is capable of making its own decisions in this respect and that no reliance is placed on any information provided by the Company or any representative of the Company or any act or omission thereof in making its investment decisions.

9.3 Should the Company at any subsequent point offer the services of investment advice and portfolio management, then it shall only do so on the basis of and in accordance with the provisions of an express written agreement. In the absence of such express written agreement, no statement, act or omission of the Company or any person representing the Company shall be deemed to constitute investment advice.

9.4 Without prejudice to the generality of the above, no statement made in relation to the performance of any Financial Instrument and no trading method or trading idea shared with the Client shall be deemed to constitute advice or a personal recommendation.

The Client acknowledges that the Company is not under an obligation to assess the suitability of any investment or service provided as would be the case if the Company was offering to the Client the services of investment advice and/or portfolio management.

**10. No legal or tax advice**

10.1 The Company does not offer legal or tax advice. The Client hereby represents and undertakes that it has access to independent legal and tax advice and makes its own decisions in this regard. No statement act or omission of the Company or any representative thereof shall be deemed to constitute legal or tax advice.

10.2 In particular, and without prejudice to the generality of the above statement, no statement made by any representative of the Company in relation to the Investment Services Agreement, these terms or any document attached thereto or specified therein or any

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matter governed by or related to these terms, shall be deemed to constitute legal or tax advice, and the Client represents and undertakes that it shall not act in reliance on any such statement.

- 10.3 In the absence of fraud or gross negligence on the part of the Company, the Company shall not be liable for any direct or indirect, pecuniary or other loss, including loss of opportunity suffered by the Client as a result of any mistake or incorrect understanding or assessment of the risk involved in or as a consequence of any Transaction, which the Client makes with or through the Company, or for adverse consequences on the Client's ability to meet any of the Client's financial obligations or commitments. The provisions of this clause are without prejudice to the provisions of clause 31 "Exclusion and Restriction of Liability" and 32 "Indemnity" below.

## **11. "Know Your Customer"**

- 11.1 Without prejudice to the right of the Company to refuse to enter into an agreement with any prospective client for the provision of Services, the Company may refuse to offer any Services unless all documentation required by the Company in order to comply with money laundering legislation and the Company's internal policies is obtained in a form and content satisfactory to the Company.
- 11.2 The Client shall at all times comply with all Applicable Provisions concerning money laundering, bribery, corruption and financial crime, as well as any other legislative provisions applicable to the Client in its own jurisdiction concerning money laundering, bribery, corruption and financial crime. The Client is under an obligation to provide to the Company such documentation as the Company may reasonably require for the above purpose in accordance with the Company's compliance policies and procedures at the outset of the client relationship as well as on regular intervals thereafter. The Client undertakes to inform the Company of any change in any such information or documentation provided by the Client for these purposes.
- 11.3 The Company may at any time after entering into an Investment Services Agreement with the Client, refuse to provide or to continue to provide Services and/or to execute pending orders and/or to freeze and/or to block and/or to retain any client cash or financial instruments, where it suspects that the Client may be in breach of any provisions of the Prevention and Suppression of Money Laundering and Terrorist Financing Law (Law 188(I)/2007) as from time to time amended or replaced, the directives and circulars issued by CySEC pursuant thereto, or any other Applicable Provisions concerning money laundering, bribery, corruption and financial crime, and/or any other legislative provisions applicable to the Client in its own jurisdiction concerning money laundering, bribery,

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corruption and financial crime, without providing reasons or further explanations as to this.

11.4 The Company shall have no liability to the Client for any action or omission of the Company pursuant to the provisions of this clause 11 (“Know Your Customer”) even if the Client has informed the Company of the loss or damage to be suffered by the Client.

11.5 To the extent applicable, the Client represents and warrants to the Company at the entry into force of the Investment Services Agreement and all times thereafter, that:

- a. it has made full and genuine disclosure of all its ultimate beneficial owners and of each person who maintains a synthetic, economic, direct or indirect interest of more than 25% (or any other percentage based on the Risk Based Approach followed by the Company) in the Client’s share capital or economic rights (including the economic rights to the transactions undertaken through the Company);
- b. the Client has provided to the Company, or will provide the Company the information (certified as the Company may require) that will enable the Company to establish the Client’s identity, to understand its business, economic and risk profile, including its sources of wealth, and to identify its beneficiaries and controlling persons, as required under the Applicable Provisions, as well as to determine the nature of the Client’s intentions while entering into the Investment Services Agreement;
- c. where the Client or any of its ultimate beneficial owners, directors, officers, employees, agents or underlying clients for whom the Client might be using any Services hereunder, is a PEP, adequate disclosure of this fact has been made to the Company and where, during the term of the Investment Services Agreement, the Client or any of its ultimate beneficial owners, directors, officers, employees, agents or underlying clients for whom the Client might be using any Services hereunder becomes a PEP, the Client will notify the Company of such fact immediately;
- d. neither the Client nor any of its associates, directors, officers, employees, agents, or underlying clients is an individual or entity that is subject to any Sanctions, or is legally or beneficially owned or controlled by a person that is subject to any Sanctions;
- e. if any information provided to the Company in respect of the Client changes in any material respect, the Client will immediately notify the Company of such change.

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The Client's Account and any assets thereon may be frozen or blocked at the Company's sole discretion and any Services provided may be suspended, pending collection by us of full and correct information regarding the Client's status;

- f. the Client will not use its Account on behalf of any third party and agrees and accepts that the Client's Account and any assets thereon may be frozen or blocked at the Company's sole discretion, to the extent any such assets are considered by the Company to be held with, transferred or delivered to the Company on behalf of a third party;
- g. all assets on the Client's Account result from bona fide economic activity which has been duly reported to the relevant tax authorities; and
- h. there are no assets in the Client's Account which have been obtained as a result of, or through means which are or may be deemed to be a result of, acts of bribery or corruption.

## **12. Appropriateness and Trading in "demo" Mode**

- 12.1 At the Client on-boarding stage the Client is required to provide the Company with information on the level of its knowledge and experience in the investment field relevant to the Investment Services which are to be provided by the Company, in order to enable the Company to conduct an appropriateness assessment under the Applicable Provisions.
- 12.2 If the Client is classified as a Professional Client, the Company is entitled to assume that the Client has the necessary knowledge, sophistication and experience to understand the risks involved in the Financial Instruments in respect of which it is categorized as a Professional Client.
- 12.3 The purpose of the appropriateness assessment is to enable the Company to assess the Client's financial experience and knowledge with a view to determine whether the specific Financial Instruments are appropriate for the Client. As such, the Client should consider carefully any warning which the Company has given as a result of making the appropriateness assessment. Should the Client have any questions or require any further clarifications regarding the appropriateness assessment, the Client may contact the Company for such further assistance and clarifications.
- 12.4 The information required for the purposes of the appropriateness assessment may be gathered by means of a standardized questionnaire or by answers to questions over a conversation with the Client, or by any other method or combination of methods for the purpose of gathering such information. If the Company considers in its discretion, that the

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responses provided are insufficient or inconsistent or conflicting with any other responses given by the Client, the Company may require further clarifications as to these responses. The information required for the purposes of the appropriateness assessment may vary depending on the financial instruments in which the Client wishes to trade.

- 12.5 The Company reserves the right, at any time, to require the Client to provide additional or other information for the purposes of the appropriateness assessment, even after the Company has confirmed successful completion of the appropriateness assessment. This may be done in respect of (i) additional or other financial instruments in which the Client may wishes to deal, (ii) any changes to the level of leverage, (iii) to a change to the Client's circumstances which has come to the Company's attention, (iv) any monitoring exercise carried out by the Company for the purpose of any ongoing appropriateness assessment which the Company may be required to, or may choose to, carry out or in any other circumstances in which the Company considers that it is reasonable or appropriate for such information to be gathered.
- 12.6 When carrying out the appropriateness assessment, only answers which demonstrate actual knowledge and experience in trading in financial instruments will be taken into account, whilst answers which are incorrect or inconsistent, lack of responses or answers of "I don't know" or of similar effect, will be provided a weighting which reduces the likelihood of such products or services being assessed as appropriate for the Client. More weight will be given to a demonstration of actual trading experience over a long period of time in the particular instruments in which the Client wishes to trade than to a demonstration of theoretical knowledge or trading in other instruments or trading over a shorter period of time.
- 12.7 For Retail Clients, the leverage level does not exceed 1:30 or such other limit as CySEC may impose from time to time.
- 12.8 The Client represents and undertakes that it understands the purpose of this appropriateness assessment and the importance of providing the Company with correct information to enable the Company to conduct the appropriateness assessment. The Client is warned and hereby accepts, that if incorrect information is provided regarding its knowledge and experience in the investment field, this will adversely affect the Company's ability to carry out the appropriateness assessment correctly.
- 12.9 Further, and without prejudice to the above, in the case in which the Company considers at any time, that the Client does not have sufficient knowledge and experience in the relevant investment field or has not provided the Company with sufficient information for the purposes of the appropriateness assessment, the Company may not allow the Client

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to proceed with or engage in any trading activity, or may take any one or more of the following measures before allowing the Client to engage in any trading activity:

- a. demand that the Client trades or continues to trade in “demo” mode until the Company is satisfied that the Client is able to trade in the relevant Financial Instruments or that the Client participates in educational exercises or webinars or other similar exercises,
- b. require the Client to provide additional information,
- c. provide the Client with such warnings as the Company considers appropriate,
- d. vary the level of margin or close out the leverage in relation to the Client’s trading activity,
- e. restrict the Client’s trading activity to certain Financial Instruments or products which the Company considers appropriate,
- f. limit the amount and value of the transactions in which the Client may engage or limit the amount which the Client may invest,
- g. require additional representations, clarifications or information to be provided by the Client,
- h. after a warning is given to the Client, impose such a “cooling off” period as the Company considers appropriate, before the Client is allowed to proceed with any trading activity,
- i. require the Client to provide an acknowledgement that it has considered any information contained in any warning before is allowed to proceed with any trading activity (such as requiring the Client to sign and return a relevant form or to reply to an email which includes a warning acknowledging that it has understood its content) , and/or
- j. require the Client to be subject to the appropriateness assessment again, after such period of time as the Company considers appropriate and after such steps are taken by the Client, as the Company considers suitable, such as requiring the Client to trade in “demo” mode or participating in educational exercises or webinars.

12.10 Without prejudice to any other provisions contained herein, the Client consents to the results of its appropriateness assessment (including any relevant voice recordings and

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other steps taken as part of the appropriateness assessment), being used for statistical purposes and such results being used by the Company for its own purposes and being disclosed to the Company's auditors and the relevant regulatory authorities where disclosure of such information is required by them.

- 12.11 The Client is warned that the Company is not under any obligation to advise the Client and shall not advise the Client on the suitability of the investment for the Client. Any statement made by the Company, its directors, employees, associates and representatives is not intended to be and shall not be construed as investment advice. THE COMPANY PROVIDES ONLY NON-ADVISED SERVICES.

### **13. Leverage**

- 13.1 The default leverage limit for Retail Clients trading in any Financial Instrument is set subject to the Company's Leverage Policy and does not exceed 1:30 in the case of Retail Clients trading in any financial instrument.
- 13.2 The default leverage limit set out above may be further restricted in respect of certain Financial Instruments, or in cases where the Retail Client has not passed the appropriateness test or where the Retail Client has passed the appropriateness test but its relevant performance was poor or has passed the appropriateness test after a failed attempt.
- 13.3 At the client on-boarding stage the Client may select the leverage ratio which it is willing to trade in respect of specific asset classes. Subject to the above provisions and the Company's Leverage Policy, the Company may allow the Client to trade at a leverage limit higher than the default limit set out above. Trading activity at a leverage level higher than the default limit set out above, requires a Retail Client's active selection of such higher leverage ratio and is subject to the Company's reasonable discretion.
- 13.4 Without prejudice to any other rights which the Company has under these terms, where the Company allows a Client to trade at leverage levels which are higher than the default limit set out above, the Company may impose additional conditions or restrictions, including without limitation, requiring the Client to perform a number of trades at a lower leverage level, conducting additional or other appropriateness tests and/or imposing restrictions on the amount which the Client may invest.
- 13.5 Notwithstanding the provisions of this clause 13 "Leverage", the Company may restrict the default and/or any selected leverage ratios at any time and without notice if it considers this to be in the Client's best interests or this is required under the Applicable Provisions.

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**14. Margin**

- 14.1 It is the responsibility of the Client to maintain at all times sufficient funds to avoid a Margin call. At all times, the Company and/or the Company Clients shall maintain positive usable Margin in its Account(s).
- 14.2 Upon opening a Transaction, the Client will be required to make payment of Margin and to maintain such Margin Level as may be required at all times until and subject to close out or termination of the relevant Transaction. The Margin payments required vary depending on the nature and contract value of the Transaction. Details regarding the Margin requirements applicable to each financial instrument or type of Transaction (including minimum margin levels and close-out levels) are set out in a separate addendum which the Client must acknowledge and accept before any Margin may be made available to it. If the Client chooses to trade with the Company on any Electronic Trading Platform which the Company makes available to it, the provisions contained in any Special Terms and Conditions which apply in respect of such Electronic Trading Platform, will also apply and shall prevail in the event of any conflict between such Special Terms and Conditions and the provisions of these General Investment Services Terms and Conditions and/or the provisions of a separate margin addendum. The Client's obligation to comply with the Margin requirements and maintain the relevant Margin Level as this applies to the Client's open positions under all the Client's Transactions, is a continuing obligation to which the Client is subject throughout the period during which a Transaction is open and exists independently or whether or not the Company provides the Client with any warning as to the Client's obligation to maintain the relevant Margin Level and the consequences of the Client's failure to do so.
- 14.3 Where the Company effects or arranges a Transaction, the Client shall comply with the Margin requirements applicable to such Transaction. The Client's failure to do so will constitute an Event of Default and will trigger close out of the Client's position in respect of which the Client has failed to make payment of the required Margin.
- 14.4 The Client is solely responsible for monitoring its position in respect of any Transaction and shall remain informed at all times regarding the amount of Margin which may be payable by the Client at any given time. The Company is under no obligation to contact the Client or give the Client any oral or written warning as to its failure to comply with the applicable Margin requirements. The Company shall under no circumstances be liable for any direct or indirect loss suffered by the Client as a result of the Client's failure to make timely payment of Margin amounts due by the Client.

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- 14.5 Margin must be paid in freely available cleared funds, in such currency as is acceptable by the Company. In the absence of fraud or gross negligence on the Company's part, the Company shall have no responsibility regarding the consequences of any failure of a Margin payment to be made to the Company, within the required timeframes, in freely available cleared funds.
- 14.6 The Client undertakes that it will not create nor will have outstanding any security interest whatsoever over, nor agree to assign or transfer, any of the cash margin transferred to the Company, except for a lien routinely imposed on all securities in a clearing system in which such securities may be held.
- 14.7 In addition, and without prejudice to any rights which the Company may have under these terms or any Applicable Provisions, the Company shall have a general lien on all cash held by the Company, or any third party on the Client's behalf, to the extent of the Client's liabilities to the Company, until the satisfaction of the Client's financial obligations towards the Company.
- 14.8 If there is an Event of Default or the Investment Services Agreement terminates, the Company shall set-off the balance of Margin owed by the Company to the Client against the Client's financial obligations towards the Company (as reasonably valued by the Company). The net amount, if any, following such set-off, shall be paid by the Company to the Client or vice versa, whichever is the case.
- 14.9 The Company may vary the required Margin and Close-Out Level by providing 10 (ten) calendar days prior notice in accordance with the provisions of clause 45 ("Amendments") of this Agreement. The Company may vary the required Margin without prior notice where the following circumstances arise or is reasonably likely or possible to arise:
- a. severe disruption in the financial market or material adverse changes which may affect one or more Transactions,
  - b. any developments or news or events which may have a material adverse effect on one or more Transactions
  - c. significant volatility affecting one or more Transactions,
  - d. any significant changes to the Client's circumstances or the laws and regulations to which the Client is subject, which may significantly impact any one or more open Transactions between the Client and the Company, and in response to effective or anticipated changes in the Applicable Provisions regarding the protection of retail clients.

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14.10 The provisions of this clause “Margin” are without prejudice to any other rights which the Company may have under these terms.

## **15. Third Parties**

15.1 The Company may provide the Services under these terms through agents, Associated Companies or other third parties. The relationship between the Company and the Client shall not be affected as a result of this and the Company undertakes to use due skill and care when selecting such agents or third parties for such services. The services shall only be conducted by such third parties during the course of Normal Business and when necessary and beneficial to the Client.

15.2 The Company may in its sole discretion, arrange for any Transaction to be effected with or through any intermediary which may or may not be an associate of the Company or Associated Company and may or may not be regulated within or outside the European Union. Neither the Company nor any director, officer, employee or agent of the Company shall be liable to the Client for any loss caused directly or indirectly by any act or omission of such intermediary broker or agent, except in the case of gross negligence or fraud or deceit in the selection of such intermediary, broker or agent. The selection of said intermediaries shall be made by the Company and the Client shall not be given the opportunity to opt out of being serviced by such intermediaries. No liability whatsoever shall arise on the part of the Company in relation to intermediary, brokers, or agents selected by the Client except for the coverage and negative protection of such Client Balance expressly applying to Retail Clients. Professional Clients as well as Eligible Counterparties will not enjoy the said protection regarding Negative Balances.

15.3 The Company is authorized to use any third party (including clearing systems, depositories, sub-custodians, outsourcing or overseas data processing agents) in relation to the Service of safekeeping and administration of financial instruments.

15.4 The Company may delegate to any such party the relevant Service and duties of the Company in relation thereto, provided that the Company shall use reasonable care in the selection of the third party which shall only be a reputedly competent party.

15.5 Financial Instruments deposited with a sub-custodian, depository or clearing agency/entity shall be held subject to the rules and operating procedures of such party and any applicable laws and regulations whether of a governmental authority or otherwise.

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15.6 The Client understands that the Company may not be able to exercise discretion in the selection or monitoring of a depository/clearing system, or in the negotiation of contractual provisions with the same.

**16. Branded Electronic Trading Platforms**

16.1 The Electronic Trading Platforms which the Company makes available to its Clients are provided through third party service providers as disclosed to the Client in the Special Terms and Conditions (MT4, FIC Trader). The Electronic Trading Platforms are made available to the Clients of the Company on the basis of the agreement between each Platform Service Provider and the Company.

16.2 Trading on each Electronic Trading Platform is subject to the Special Terms and Conditions which apply in respect of such Electronic Trading Platform and which must be accepted by the Client prior to being able to trade on such Electronic Trading Platform.

16.3 Despite any Electronic Trading Platform being a branded trading platform made available through a third party, the Company is the sole counterparty of the Client. The Company will in turn and on a simultaneous basis enter into off-setting transactions with such Platform Service Providers, on a principal to principal basis.

16.4 Any grievances which the Client may have in respect of any Electronic Trading Platform should be made directly to the Company. The Platform Service Providers through which such Electronic Trading Platforms are made available to the Client have no direct or indirect contractual relationship with the Client and shall not be liable to the Client in respect of such Electronic Trading Platforms. The liability for any trading activity on the Electronic Trading Platforms remains with the Company.

16.5 The Electronic Trading Platforms are hosted by the Platform Service Providers on their servers.

16.6 The responsibility for carrying out the appropriateness assessment and for providing best execution to the Client remains with the Company. Subject to the Investment Services Agreement, the Company is responsible for execution and settlement of the trade entered into via the Electronic Trading Platforms.

16.7 Notwithstanding the absence of a contractual relationship between the Client and the Platform Service Provider, the Company may in certain cases be required to disclose to the Platform Service Provider certain information regarding the Client and its trading

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activity. This may include for example, due diligence information or information regarding trades executed by the Client for the purposes of enabling the Platform Service Provider to comply with its obligations under the applicable money laundering or market abuse legislation.

- 16.8 The Client shall not amend, copy, adopt or further develop any of the Company's Electronic Trading Platforms. The Client shall compensate the Company, the Electronic Service Provider and/or any third party in the event that they incur any loss as a result of any such activity. The Client shall not sell, lease, transfer (in whole or in part) to any third party any software covered by the Special Terms and Conditions governing the use of the Electronic Trading Platforms.

## **17 Client Categorization**

- 17.1 In accordance with the provisions of MIFID II, the Company shall categorize the Client as Retail Client, Professional Client or Eligible Counterparty. The Client may request a different categorization. Any such request must be made in writing via the appropriate documentation provided by the Company for this purpose and must be approved by the Company. Any acceptance or refusal by the Company of an application for a different categorization will be notified to the Client in writing and in case of acceptance, this shall take effect on the date of the Company's acceptance as evidenced by the relevant written communication between the Company to the Client. More detailed information on the Clients' categorization, their right to request a different categorization and the consequences of such different categorization can be found in the Company's Client Categorization Policy as published on the Company's website and subject to change from time to time.
- 17.2 The Client hereby undertakes that any request for a change of categorization to a lower protection category is made after having read and understood the differences in the protection afforded to each category of Clients as these are set out in the Client Categorization Policy of the Company.
- 17.3 The Company reserves the right, in its absolute discretion, to refuse to provide Services upon a request for change of categorization. The fact that the Client may make a request to the Company for a different categorization, shall not create any obligation on the Company to accept any such request. The Company may reject requests for re-categorization if, inter alia, holds a bona fide belief that this is in the best interests of the Client.

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17.4 The Client shall duly complete and submit to the Company the Customer Investment Questionnaire, so that the Company can collect the information required for the Client's categorization. The Client hereby represents and warrants that the information to be provided, which will be used by the Company for the purpose of the Client's categorization, is true, correct and accurate. This is a continuous representation and, notwithstanding that the Company may request further information, and that the Client shall in such a case provide to the Company such additional information, it shall be the obligation of the Client to inform the Company of any changes to such representations or to inform the Company if such representations cease to be true. In case the Company ascertains that the Client no longer fulfills the criteria based on which its categorization was made, the Company shall re-categorize the Client.

## **18 Reception, Transmission and Execution of Client's orders**

18.1 The Company may act in accordance with any instructions for the provision of Services which emanate or which reasonably appear to emanate from the Client or an appropriately empowered Authorized Representative of the Client appointed pursuant to Appendix 1 of the Investment Services Agreement.

18.2 The Company may all together refrain from, or delay in executing client orders, until appropriate remedial actions are taken by the Client, depending on the particular circumstances, where:

- i. it reasonably believes, or suspects, that in doing so, it will be in breach or may potentially be in breach of these terms or the Applicable Provisions, including, without limitation to the generality of this statement, circumstances in which the Company reasonably believes that execution of the order results in or may possibly result in market manipulation or insider trading, or otherwise affecting in any manner the credibility of the regular operation of any market or contributing to the legalization of illegal activities;
- ii. there are insufficient Client funds to cover the Transaction or to cover the contingent liability arising from or associated with the Transaction envisaged;
- iii. there are insufficient Financial Instruments registered in the name of the Client to cover the actual and/or contingent liability arising from or associated with the Transaction envisaged;
- iv. the Client has not fulfilled its obligations pursuant to these terms or is in breach or anticipatory breach of the provisions of these terms;
- v. the Company is not satisfied of the identity or the authorization of the person placing the order; and/or
- vi. the order has a time duration that is not acceptable by the Company.

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- 18.3 Any such refusal or delay by the Company shall:
- i. not affect any obligation which the Client may have towards the Company or any right which the Company may have towards the Client or the Client's property or other rights, pursuant to these terms or otherwise, and
  - ii. not result in liability arising against the Company for any loss caused to the Client as a result of such refusal or delay, regardless of whether the Company has been advised by the Client of any particular circumstances causing such loss.
- 18.4 The Client may request the provision of Services pursuant to these terms by placing orders on a Business Day during the Company's Business Hours. The Company may in its discretion, but shall not be obliged to, accept orders given/placed outside the Company's Business Hours.
- 18.5 The Company will accept orders placed by the Client-
- i. via the telephone over a recorded line,
  - ii. by visiting the Company's premises in Nicosia and giving to the Company a signed written instruction, or
  - iii. via any Electronic Trading Platform which the Company operates
  - iv. via email sent to [trading@fidusinvestments.eu](mailto:trading@fidusinvestments.eu)
  - v. such other means as may be communicated to the Client by the Company in writing from time to time.
- 18.6 The Company reserves the right to request that the client re-submits any order in writing.
- 18.7 The Client hereby consents to the recording on tape or transcription by any other means, of its telephone communications with the Company and acknowledges and accepts that any such recordings may be used by the Company, as evidence of the reception and content of the Client's orders. Such evidence may be admitted by the Company to any court or arbitration procedure.
- 18.8 The Company may refuse to provide any Services where the instructions given by the Client are not clearly provided in a readily understandable manner or may delay in providing the Services until such time as reasonable clarifications are provided by the Client to the satisfaction of the Company's responsible employee.
- 18.9 The Company shall not be in any way liable for any loss caused by movement in market prices or other change in circumstances occurring, until such clarifications are provided.

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- 18.10 Any order placed by the Client shall be-
- i. irrevocable unless the Company in its absolute discretion allows the Client to revoke or amend the relevant order,
  - ii. precise and accurate.
- 18.11 Any order for amendment, confirmation or repetition of an order should be expressly defined as such by the Client.
- 18.12 Notwithstanding the provisions included in these Terms and Conditions or of any future agreement or other agreement(s) in the course of the dealing(s) between the Company and the Client, the Company is entitled, but is not obliged, to rely upon and act in accordance with any notice, order, demand or other communication which may from time to time be or purport to be given, by telephone, facsimile, electronically or through any other communication channels on an ad hoc basis to ensure the better service of the Client. The Client by continuing to use any specific method of communication expressly agrees that it recognizes the said communication as acceptable method of communication between the Company and the Client.
- 18.13 The Company shall be entitled to treat such notice, order, demand or other communication as fully authorized by, and binding on the Client, and the Company shall be entitled but not bound, to take such steps in connection with, or in reliance upon, such communication as the Company may in good faith consider appropriate, whether such communication includes instructions to the execution of an order, disposition of any money, securities or documents, or purports to bind the Company to any agreement or other arrangement with the Company or with any other person or to commit to any other type of transaction whatsoever, regardless of the nature of the transaction or arrangement or the amount of money involved and notwithstanding any error or misunderstanding or lack of clarity in the terms of such notice, order, demand or other communication.
- 18.14 All instructions given by the Client must be in accordance with the Terms and Conditions of the Company as well as with such procedures as may be communicated to the Client from time to time by the Company. The Client undertakes to strictly comply, at all times, with the procedures communicated by the Company to the Client from time to time.
- 18.15 The Client shall indemnify the Company and keep the Company indemnified against all losses, claims, actions, proceedings, demands, damages, costs and expenses incurred or

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sustained by the Company of whatever nature and howsoever arising out of, or in connection, with such notices, demands or other communications, provided and as long the Company acts in good faith.

- 18.16 The Client acknowledges, accepts and understands that where the Company performs any acts in good faith and upon reasonable reliance that the instructions received by any of the means mentioned above, are authentic, the Company shall not bear any responsibility nor it shall have any liability, where such acts are later proven to be unauthorized.
- 18.17 In the event where instructions received from the Client are being executed by the Company through a Paying/Advising bank or any other bank or any institutional counterparty (Broker, Liquidity Provider, Custodian, Sub-Custodian, Depository, etc.), whether selected by the Client and/or by the Company and/or by the Paying/Advising Bank and in the event of bankruptcy, winding up, ceasing of business and/or any other event occurring to such bank(s) or of the Company's institutional counterparties, the Client expressly waives any demand, claim or right against the Company including any right of reimbursement for any losses incurred by the Company and/or by any third party as a result of the above events.
- 18.18 The Client hereby declares and agrees that if any instructions originally sent by any telecommunication method are subsequently communicated to the Company again by any method of telecommunications or in person or by postal mail or by telephone, such communication shall be clearly marked or verbally mention "Instructions already sent to you on / / (being the date) by - - - - - (being the method) – PLEASE AVOID DUPLICATION". Failure in Client's part to do so, releases the Company from any liability whatsoever for acting more than once on the same instructions.
- 18.19 The Company may, but shall not be obliged to, require that the Client, at its own expense, to confirm any order in writing before execution. In such a case, no liability shall arise against the Company for any loss caused to the Client as a result of delay for the purpose of obtaining such confirmation, regardless of whether the Company has been advised by the Client of any particular circumstances causing or which are likely to cause such loss.
- 18.20 Reception of any Client's order by the Company shall not constitute acceptance of such order and acceptance shall only be constituted by execution of the order to the degree and extent of such execution.
- 18.21 The Company or its liquidity providers/brokers might be using internal sources of liquidity, including without limitation by matching "buy" and "sell" orders of different Clients (crossing against client order flow) and client facilitation. The Client acknowledges and

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accepts that in engaging in the above practices, the Client's order may not be executed on an Exchange's central trading system.

18.22 The Company may report any such trades as may be required to be reported under the Applicable Provisions.

18.23 Whenever an order is placed following specific instructions from the Client, the Company executes the order according to these instructions even though this may prevent the Company from following the principles defined in its Order Execution Policy with respect to obtaining the best possible result for the Client. Execution following the Client's specific instructions is considered to satisfy the best execution obligation.

18.24 No liability shall arise against the Company:

- i. in respect of acts or omissions of any natural or legal person which may substitute it during the reception and transmission or execution of a Client's order, or
- ii. in the event of cancellation of a transaction in relation to which a Client gives an order.

18.25 The Company hereby reserves the right but shall be under no obligation to set limits and/or parameters to control the ability of the Client to place orders. Such limits may be amended in any way at the Company's absolute discretion. Without prejudice to the generality of the foregoing, such limits or parameters may include:

- i. controls over maximum order amounts and maximum order sizes,
- ii. controls over total exposure of the Company to the Client,
- iii. controls over prices at which orders may be submitted,
- iv. controls over any Electronic Services which the Company may at any time have in place,
- v. closing out any one or more Transactions in order to comply with the set limits or parameters, and
- vi. any other limits or parameters which the Company may in its reasonable discretion deem necessary.

18.26 If any Exchange, intermediate broker or agent acting at the direction of, or as a result of action taken by such Exchange, or regulatory body, takes any action which affects a transaction, then the Company may take such action which in its reasonable discretion deems necessary or otherwise considers desirable, in order to correspond to such action or to mitigate any actual or contingent or direct or indirect loss which shall or may result

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from such action. Any action taken by the Company pursuant to the provisions of this clause shall be binding on the Client.

18.27 The Company shall be under no obligation to repurchase from the Client any Financial Instruments which the Company has sold to the Client at any particular price or at all, except on such terms as may be agreed between the Company and the Client and evidenced in writing.

18.28 It is also possible that an order involving a Financial Instrument listed in a regulated market or MTF is executed outside a regulated market or MTF. In this case, as well as when the Financial Instrument in question is not listed in any regulated market or MTF, the execution of the order will be based on a bilateral price agreement between the Company and the Client. The price offered by the Company depends on the Financial Instrument's characteristics and the market conditions at the time of the Transaction.

18.29 In the case where, as a result of a system or other failure, the Company has no alternative but to execute an order using a method other than the one prescribed in its Order Execution Policy, the Company will endeavor to execute it on the best possible terms possible for the Client.

## **19 Time of Execution**

19.1 The Company shall use reasonable endeavors for the timely execution of all Client orders or otherwise as soon as this is reasonably practicable. The Company may derogate from this obligation where it deems in its reasonable discretion that this is in the best interest of the Client and the Client has not prohibited such derogation. No liability shall arise against the Company for any loss or expense suffered by the Client due to any change in market conditions between the time of receipt of the order and the time of execution, unless such loss or expense was caused by the gross negligence and/or willful misconduct of the Company.

## **20 Aggregation and Partial Execution**

20.1 Subject to the Applicable Provisions, the Company shall have the right to partially execute Client orders and/or to aggregate the Client's order with the order of any other client, any Associated Company or the Company's own orders. In the case of such partial execution or aggregation, the Company shall allocate the proceeds in such a manner as the Company deems to be fair and on an equitable basis unless otherwise agreed between the Company and the Client.

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- 20.2 The Company may permit a third party (which may or may not be an Associated Company) with which an order may be placed in accordance with the provisions of clause 15 “Third Parties” above to aggregate the orders of the Client with any other orders.
- 20.3 The Client hereby agrees that where its orders has been aggregated, the Company may allocate the financial instruments which have been the subject matter of the aggregation as soon as it is reasonably practicable acting always in the best interests of the Client.

## **21 Settlement**

- 21.1 The Company shall not settle any Transactions for the Client unless it has received its settlement agent’s confirmation that the relevant funds and/or financial instruments and/or documents (as appropriate in each case) have been received.
- 21.2 Where the Company is acting as the agent of the Client, it shall only pay funds or transfer documents or Financial Instruments to a custody account if these were received from the other party to the Transaction.
- 21.3 The Company may in its reasonable discretion effect settlement of a transaction on a net basis.
- 21.4 If either the Company or the Client is required to deliver any Financial Instruments or funds, they will execute and deliver all necessary documents and give all necessary instructions in order to procure that all title rights and interests in the relevant Financial Instruments or funds will pass to the transferee free of any liens, charges or encumbrances. Delivery and transfer of title will take place in accordance with the requirements applicable to the relevant Financial Instrument.

## **22 Client Money**

- 22.1 The provisions of these terms relating to client money, are subject to the terms and conditions of the institutions with which such funds are held and through which such funds are transferred.
- 22.2 The Company co-operates with various credit institutions. A complete list of the credit institutions with which the Company co-operates can be found on the Company’s website.

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- 22.3 The Company does charges fees for deposits or withdrawals of money transferred into or out of the Client's Account with the Company. It remains however the Client's responsibility to be aware at all times, of the transfer fees and/or any other fees and charges which are charged by the bank, payment service providers and any other service providers which the Client uses for the transfer of funds to and from the Company.
- 22.4 Where the Company is faced with a chargeback from any financial institution, which chargeback relates to the Client's trading activity with the Company, the Company shall be entitled to provide such financial institution with such evidence of the relationship with the Client, as may be necessary in order for the Company to demonstrate to the relevant financial institution the existence of a trading relationship and relevant trading activity between the Company and the Client.
- 22.5 When the Client transfers money to its Account with the Company, the time taken for the funds to appear on the Client's Account depends on the method used for transferring such funds. Deposits and withdrawals of funds can only be made to and from accounts in the Client's own name.
- 22.6 Withdrawal of funds is subject to the Margin requirements of the Company and is subject to the right of the Company to require additional information or documentation prior to releasing funds to the Client's Account and to the provisions of clause 11 "Know Your Customer" above. If the Client requests a withdrawal of funds from its Account and the Company cannot comply without closing some part of the Client's open positions, the Company will not be able to fulfil the Client's request until it has closed sufficient positions to enable their withdrawal. Subject to the foregoing, the Client's request for withdrawal of funds will be processed within the same day if received on a Business Day within Business Hours and, in the case of withdrawal requests received outside of Business Hours or on a day which is not a Business Day, by the Business Day following the day the request was received. The Company shall keep the Client informed regarding the processing of its withdrawal request.

The Company treats money received from the Client or held by the Company on the Client's behalf in accordance with the Applicable Provisions regarding holding client money.

- 22.7 The Company will endeavor to hold Client's money with authorized credit institutions in the Republic of Cyprus and the European Union. However the Company may also hold the Client's money outside the European Union. The funds will be kept in bank accounts clearly denoted as Clients' funds and will be segregated from the Company's own funds. Funds deposited may be kept in one or more omnibus accounts with any authorized credit institution, the details of which will be specified by the Company from time to time and

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will be held under the Company's name. The legal and regulatory regime applying to any such bank or person will be different from the legal and regulatory regime in Cyprus and the European Union and in the event of the insolvency or any other analogous proceedings in relation to that bank or person, the Client's money may be treated differently from the treatment which would apply if the money was held with a bank in an account in Cyprus or anywhere else in the European Union. The Company will not be liable for the insolvency, acts or omissions of any third party referred to in this clause or for any loss suffered as a result of any shortfall in any omnibus account.

22.8 The Client by agreeing to this agreement and where classified as a Professional Client or Eligible counterparty, agrees and consents to enter into a Title Transfer Collateral Arrangement (TTCA), and if the Company exercises a right of use in relation to any financial instruments or funds that the Company has provided to the Client by way of collateral under a security collateral arrangement containing a right of use, the Client expressly acknowledges that it understands and expressly agrees to the following risks that may or may not arise from time to time:

- 22.8.1.1. any rights, including any proprietary rights that the Client may has in those financial instruments or funds will be replaced by an unsecured contractual claim for delivery of equivalent financial instruments or return of funds subject to the terms of the relevant Collateral Arrangement;
- 22.8.1.2. such financial instruments will not be held by the Company in accordance with client asset rules, and, if they had benefited from any client asset protection rights, those protection rights will not apply (for example, the financial instruments will not be segregated from the Client's assets and will not be held subject to a trust);
- 22.8.1.3. funds under provisions of TTCA will not be held by the Company in accordance with Client funds rules and, if the funds had benefited from any Client funds protection rights, those protection rights will not apply (for example, the funds will not be segregated from the Client's assets and deposited with another bank or banks);
- 22.8.1.4. in the event of the Company's insolvency or default under the relevant agreement the Client's claim against the Company for delivery of equivalent financial instruments or return of funds will not be secured and will be subject to the terms of the relevant Collateral Arrangement and applicable law and, accordingly, the Client may not receive such equivalent financial instruments or recover the full value of the financial instruments or funds (although the Client's exposure may be reduced to the extent that it has liabilities to the Company which can be set off or

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netted against or discharged by reference to the Company's obligation to deliver equivalent financial instruments or return funds to the Client);

22.8.1.5. in the event that a resolution authority exercises its powers under any relevant resolution regime in relation to the Company any rights the Client may have to take any action against the Company, such as to terminate the Company's agreement, may be subject to a stay by the relevant resolution authority and:

22.8.1.5.1 the Client's claim for delivery of equivalent financial instruments or return of funds may be reduced (in part or in full) or converted into equity; or

22.8.1.5.2 a transfer of assets or liabilities may result in the Client's claim against the Company, or the Company's claim against the Client, being transferred to different entities although the Client may be protected to the extent that the exercise of resolution powers is restricted by the availability of set-off or netting rights;

22.8.2 as a result of the Client's ceasing to have a proprietary interest in those financial instruments it will not be entitled to exercise any voting, consent or similar rights attached to the financial instruments, and even if the Company has agreed to exercise voting, consent or similar rights attached to any equivalent financial instruments in accordance with the Client's instructions, which entitle the Client to notify the Company that the equivalent financial instruments to be delivered by the Company to the Client should reflect its instructions with respect to the subject matter of such vote, consent or exercise of rights. In the event that the Company does not hold and is not able to readily obtain equivalent financial instruments, the Company may not be able to comply (subject to any other solution that may have been agreed between the parties);

22.8.3 in the event that the Company is not able to readily obtain equivalent financial instruments to deliver to the Client at the time required, the Client may be unable to fulfil its settlement obligations under a hedging or other transaction it has entered into in relation to those financial instruments; a counterparty, exchange or other person may exercise a right to buy-in the relevant financial instruments; and the Client may be unable to exercise rights or take other action in relation to those financial instruments;

22.8.4 subject to any express agreement between the Client and the Company, the Company will have no obligation to inform the Client of any corporate events or actions in relation to those financial instruments;

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- 22.8.5 the Client will not be entitled to receive any dividends, coupons or other payments, interests or rights (including securities or property accruing or offered at any time) payable in relation to those financial instruments, although the express written terms of the relevant Collateral Arrangement or Transaction may provide that the Client can receive or be credited with a payment by reference to such dividend, coupon or other payment (a “manufactured payment”);
- 22.8.6 the provision of title transfer collateral to the Company, the Company’s exercise of a right of use in respect of any financial collateral provided to the Company by the Client and the delivery by the Company to the Client of equivalent financial instruments or the return of funds may give rise to tax consequences that differ from the tax consequences that would have otherwise applied in relation to the holding by the Client or by the Company for the Client’s account of those financial instruments or funds;
- 22.8.7 where the Client receives or is credited with a manufactured payment, its tax treatment may differ from its tax treatment in respect of the original dividend, coupon or other payment in relation to those financial instruments.
- 22.9 The Company deposits Financial Instruments held on behalf of the Company’s clients in an account and/or accounts opened with a third party, provided that the Company exercised all due care, skill and diligence in the selection, appointment and periodically reviews the third party and the arrangements for the holding and safekeeping of Financial Instruments. With regards to the deposit of clients’ funds, in the event the Company does not deposit clients’ funds with a central bank, the Company exercises all due care, skill and diligence in the selection, appointment and periodic review of the credit institution, bank or money market fund where the funds are placed and the arrangement for the holding of those funds. The Company shall take into account the expertise and reputation of the third party as well as the legal requirements or market practices related to the holding of those Financial Instruments that could adversely affect clients’ rights.
- 22.10 The Company shall take all necessary measures in order to ensure that any Clients’ Financial Instruments deposited with a third party are identifiable and separate from the Financial Instruments belonging to the Company and from Financial Instruments belonging to that third party, by means of differently titled accounts on the books of the third party or other equivalent measures that achieve the same level of protection. Similarly, as per the requirements of the Applicable Provisions, the Company, on receiving any clients’ funds, shall promptly place those funds into one or more accounts denoted as “Clients’ accounts”.

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- 22.11 Where necessary, the Company shall apply diversification as to where clients' Financial Instruments and funds are held, through the maintenance of accounts with several third parties.
- 22.12 The Company may hold Clients' funds in omnibus accounts with third party financial and credit institutions. The omnibus accounts will be denominated in United States Dollars (USDs). In this respect, the Client is hereby warned that there is a risk of loss emanating from the use of omnibus accounts in financial or credit institutions. In such a case, it may not be possible to distinguish if the particular Client's funds are held by a certain financial or credit institution. Omnibus accounts may also entail other types of risks including legal, liquidation risk, haircut risk, third party risk etc.
- 22.13 In the event of insolvency or any other analogous proceedings in relation to a financial or credit institution with which Client's funds are held, the Company (on behalf of the Client) and/or the Client may only have an unsecured claim against the financial or credit institution, and the Client will be exposed to the risk that the money received by the Company from the financial or credit institution, is insufficient to satisfy the claims of the Client with claims in respect of the account. The Company does not accept any liability or responsibility for any resulting losses so in the unlikely event of default the proportionate loss shall affect all of the Company's Clients' monies held in omnibus accounts with the financial or credit institution.
- 22.14 In the case where there has been no movement on the Client's balance for six years, the Company may write to the Client at its last known address informing it of the Company's intention to no longer treat the Client's balance as Client money and giving to the Client 28 calendar days to make a withdrawal.
- 22.15 The Client agrees that it shall not be liable for any default of any counterparty, bank, custodian or other entity which holds money on its behalf or with or through whom Transactions are conducted.
- 22.16 The Company will not be liable for loss suffered by the Client in connection to its funds held by the Company, unless such loss directly arises from the Company's gross negligence, willful default or fraud.
- 22.17 Unless specifically designated in writing by the Client, Client money may be held together with the holdings of other clients in a general omnibus accounts and/or different accounts. In such a case, the Company reserves the right to split holdings under different counterparties without the prior consent of the Client. In this case the Company clearly makes it known to the Client that there is a risk that its funds could be withdrawn or used

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to meet obligations of other Clients. In cases where the balance of assets held by the third party does not reconcile with the quantity which the third party is required to hold, there is the remote possibility that a Client may not receive its full entitlement of Client Funds saved as to Clients that receive Negative Balance Protection (only for clients classified as Retail Clients). The Company has the right to split the Clients' holdings under different counterparties for the benefit of the Client always in accordance with the provisions of this agreement.

- 22.18 In extreme cases such as an insolvency event of a third party, the Client Funds/holdings may be lost entirely. In such a case the Client consents not to hold the Company liable for said losses. The Company shall do its best to maintain the safekeeping of each and every client's funds individually. The third party to whom the Company will pass Clients' money, may hold them in an omnibus account; and it may not be possible to separate them from other Company's Clients' money or the Company's own money. In the event of the insolvency or any other analogous proceedings in relation to that third party, the Company may only have an unsecured claim against the third party on behalf of the Client, and the Client will be exposed to the risk that the money received by the Company from the third party is insufficient to satisfy the claims of the Client with claims in respect of the relevant account. The Company does not accept any liability or responsibility for any resulting losses.
- 22.19 All funds, securities, currencies, and other property of the Client which the Company or its Counterparties may at any time hold for the Client (either individually, jointly with other, or as an omnibus account) or which may at any time be in its possession or control or carried on its books for any purpose, including safekeeping, may be held by the Company as security and be subject to a general lien and right of set-off for liabilities of the Client to the Company, whether or not the Company has made advances in connection with such securities, commodities, currencies or other property, and irrespective of the number of accounts the Client may have with the Company.
- 22.20 The Company may, in its discretion, at any time and from time to time, without notice to the Client, apply and/or transfer any or all funds or other property of the Client between any of Client's accounts or sub-accounts or trading platforms. The Client hereby also grants to the Company the right to pledge, re-pledge, hypothecate, invest or loan, either separately or with the property of other Clients, to itself as broker or to others, any securities or other property of the Client held by the Company as margin or security. The Company shall at no time be required to deliver to the Client the identical property delivered to or purchased by the Client for any account of the Client. This authorization shall apply to all accounts carried by the Company for the Client and shall remain in full

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force until all accounts are fully paid by the Client or notice of revocation is sent by the Client to the Company.

- 22.21 In all eventualities the Client and the Company agree that the Company is not the counterparty of the traded financial instruments. The Counterparty Risk arises from the possibility that the Company's counterparty will fail to perform an obligation arising from transactions.
- 22.22 The Company would like to reiterate the fact that there are no guarantees to the credit worthiness of the chosen counterparties. Every attempt has been made to deal with reputable credit worthy liquidity providers/banks/brokers/custodians, etc. Also, there may be certain cases in which trading liquidity decreases causing trading in certain securities to cease, thereby preventing the liquidation of an adverse position which may result in a substantial financial loss.
- 22.23 The Company would like to inform the Client in relation to the holding of the Clients' money, save as to where already detailed in this document, that the Company reserves its rights in relation to general fees, custody fees, interest, commissions and any other costs which the Company might charge. The general fees imposed by the Company from time to time are available to the Client in the Fees Schedule posted on the Company's website as Appendix 4 to the Investment Services Agreement and may also be communicated to the Client in any other means.
- 22.24 In line with the License the Company holds for the Granting of Credit and Loans and where required, the Company may grant to a Client Credit or a Loan. This granting of credit or loans to an investor is made solely to allow the Client to carry out a transaction in one or more financial instruments, where the Company is granting the credit or loan and the Client understands that the Company at its sole discretion may make available to the Client such credit or loan and such shall be allocated to the designated client's trading account held with the Company. The Client acknowledges that any collateral granted in favor of the Company shall be held solely for the purpose of the grant of such Credit or Loan and maybe relinquished at any given time to cover the balance owed to the Company.

## **23 Withdrawals**

- 23.1 Subject to the provisions of these terms, including the provisions of clause 11 "Know Your Customer", all Applicable Provisions and all conditions attached to any relevant payments made to the Client under any scheme operated by the Company, funds may be withdrawn

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from the Client's Account provided that such funds are not being utilized for Margin purposes or have otherwise become owed to us.

- 23.2 It is noted that some banks and credit card companies may take time to process payments especially in currencies where a correspondent bank is involved in the transaction. The Company shall have no liability for delays caused by such third parties.
- 23.3 Please note that the Company is required to act in accordance with the Applicable Provisions at all times and that any failure to complete the Company's due diligence procedure to the Company's reasonable satisfaction may affect the Client's ability to withdraw funds.
- 23.4 If the Client requests a withdrawal of monies from its Account and the Company cannot comply with it without closing some part of the Client's open positions, the Company will not comply with the request until the Client has closed sufficient positions to allow it to make the withdrawal.
- 23.5 Subject to the above, the Company shall aim to transfer funds to the Client within one Business Day from the date on which the Client makes a withdrawal request.

## **24 Custody**

- 24.1 Without prejudice to, and in accordance with the provisions in clauses 6 "Basis of Dealing" and 15 "Third Parties" above, where the Client has requested to be provided with the Service of safekeeping and administration of its Financial Instruments, the Financial Instruments of the Client shall be deposited for safekeeping either with the Company or with a third party of the Company's choice which provides custody services in accordance with the specific agreement between the Company and such third party.
- 24.2 In cases in which the Client's Financial Instruments are deposited for safekeeping with third parties, the Client hereby gives its irrevocable instruction and authorization to the Company to enter on its behalf into a contract with the custodian of the Company's choice under such terms as such custodian is providing the relevant services.
- 24.3 The Client accepts that its name may be disclosed to the external custodian, which may be located outside the Republic of Cyprus. If it would be unusual, onerous or impossible to register the assets in the Client's name in this location, the assets may be registered in the name of a sub-custodian or a third party, but always for the account of and at the risk of the Client.

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- 24.4 Financial Instruments belonging to a Client may be subject to the law of a jurisdiction other than that of a European Economic Area (EEA) country. The rights of such Clients in relation to these Financial Instruments may differ accordingly. If foreign legislation prevents or hinders the Company or any sub-custodian from returning assets held for safekeeping abroad, the Company shall only be required to provide the Client with a proportional claim to return the assets at the foreign location, provided that such claim exists and is transferable.
- 24.5 The risk associated with the safekeeping of Financial Instruments deposited with third parties shall be borne by the Client, notwithstanding that the Company shall comply with its obligation to use due skill and care in the selection of such third party as provided in clause 15 "Third Parties" above.
- 24.6 Where, pursuant to the provision of Services by the Company, any Client's Financial Instruments come under the possession or control of a third party having any claim against the Client, the Company shall not be liable to the Client in any way for the exercise by such third party of any lawful right against the Client's Financial Instruments for the purpose of satisfying the third party's claims. The Client acknowledges and accepts that sub-custodians of the Company may have a lien in relation to Financial Instruments of the Client held with them.
- 24.7 The Company's sole responsibility with regard to the sale proceeds of any Financial Instruments of the Client is to receive payment of such proceeds from the purchaser (or its agent), broker or any other party provided that the Company shall not be liable to the Client in any way if such payment to the Company does not constitute a proper, timely or valid payment. The Company may make delivery of the Financial Instruments either contemporaneously with or before the receipt of such payment or purported payment in accordance with local settlement procedures.

## **25 Corporate Actions**

- 25.1 The Company shall be responsible for and shall perform necessary acts for the collection of dividends, distributions and other income deriving from Financial Instruments belonging to the Client and held in custody by the Company pursuant to the provision of Services by the Company to the Client.
- 25.2 Unless otherwise agreed in writing, the Client hereby acknowledges and agrees that it shall be solely responsible for exercising any voting rights related to its Financial Instruments and for having knowledge of the rights and terms of issue of all its Financial Instruments which may be terminating or expiring, including without limitation warrants,

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nil-paid rights, voting rights, bonus issues, convertible financial instruments, stocks and Financial Instruments which are subject to any acquisition or exchange offer. The Company shall have no responsibility, nor shall it have any duty to notify the Client in respect of any expiry dates or acquisition dates or to proceed to any actions on behalf of the Client without specific written orders from the Client which shall be accepted by the Company in writing.

25.3 In case the Company proceeds with any reminder in relation to the Financial Instruments of the Client and/or the exercise and/or conversion and/or other action in relation to the Client's financial instruments on behalf of the Client, this shall not constitute an assumed obligation on the part of the Company and the Client shall remain responsible for all the above without any prejudice to the foregoing.

25.4 In the absence of contrary instructions and as long as the Company is prepared to provide the Service of safekeeping and administration of Financial Instruments, the Company is hereby authorized by the Client to carry out administrative acts and/or the following transactions at the Company's discretion relating to any Financial Instruments held for and on behalf of the Client, without requiring further instructions from the Client:

(i) to complete and sign any affidavits, certificates of ownership or other certificates relating to the Financial Instruments held for and on behalf of the Client, which may be required by the tax or any other regulatory authority;

(ii) to collect and receive, for the account of the Client, all income and other payments and distributions in respect of the Financial Instruments held for and on behalf of the Client;

(iii) to receive and hold for the account of the Client any capital arising out of or in connection with the Financial Instruments held for and on behalf of the Client as a result of it being called or redeemed or otherwise becoming payable;

(iv) to receive and hold for the account of the Client all Financial Instruments received by the Company as a result of a stock dividend, share sub-division or reorganization, capitalization of reserves or otherwise related to the Financial Instruments held for and on behalf of the Client pursuant to the provision of Services by the Company;

(v) to exchange interim or temporary receipts for definitive certificates, and old or over stamped certificates for new certificates;

(vi) to make cash disbursements or payments for any fees, taxes, duties, levies, expenses and/or any payments incurred in connection with the Company's duties under these terms; and

(vii) to do all such acts as the Company may consider to be necessary or desirable for the above or in order to perform its duties under these terms (including any currency conversion at the prevailing rate as reasonably determined by the Company where any payment is received or is to be made in a different currency). The Company will do its best to inform the Client of notices that it has actually received in respect of any bonus issues, rights issues, payment calls,

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takeover bids or general meetings of the issuers/companies in relation to the relevant Financial Instruments. The Company shall have no liability towards the Client in the case of accidental failure or omission on the part of the Company to inform the Client in respect of any such notices actually received. The Client shall give the Company instructions on a timely basis so that the Company can have sufficient time to comply with the same. If the Company does not receive any timely instructions from the Client, the Company is authorized at its discretion to take or omit to take any action without any liability as it may deem advisable or expedient to be in the interest of the Client.

25.5 Corporate action notices/offer documents may contain restriction or exclusion clauses. The Client shall be responsible to review such clauses/notices/documents, and the Company does not represent that the Client and/or its Clients are eligible for the offer or that any instruction electing to participate will be acted upon/accepted by the issuer/its agents. The Company is not responsible for the content, sufficiency and/or accuracy of any corporate action document nor the result of any application thereunder. If the Client instructs the Company to act in relation to any corporate action, the Company is entitled to rely upon the instruction and consider any information supplied thereto as the Client's confirmation that the same would not contravene any law, rule or restriction/exclusion clause related to the corporate action.

25.6 The indemnity in favor of the Company in these terms as per clause 32 "Indemnity" shall also cover any liability incurred in the Company providing the information to the Client and/or acting on the Client's instruction thereunder.

## **26 Charges and Payments**

26.1 The charges of the Company may include a commission, mark-up or mark-down and/or a spread. The Company's charges in relation to Services provided are as set out in Appendix 4 hereto.

26.2 The Company shall have a first fixed charge, lien and security right as well as a right of set-off in relation to Financial Instruments or cash of the Client held in any Account with the Company in relation to any unpaid fees or charges due by the Client under these terms (to the extent of such fees and charges) and the Company shall be entitled to convert and set-off any cash and/or sell or otherwise dispose of any Financial Instruments in settlement of the same.

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**27 Foreign Exchange**

- 27.1 Any conversion required to be effected from one currency to another for the execution of any order or for effecting any Transaction by the Company pursuant to the provision of Services, may be done by the Company in such a manner and at such time as the Company may deem appropriate in its reasonable discretion and at such fee as the Company may reasonably determine.
- 27.2 The Client acknowledges and agrees that it shall undertake all risks deriving from any such conversion and in particular, without prejudice to the generality of the above provision, the risk of loss which may be incurred as a result of the fluctuation in the relevant exchange rate.

**28 Events of Default, Netting and Close-Out**

28.1 The following shall constitute events of default (“Events of Default”):

- a. the Client fails to make any payment when becomes due under these terms or any Special Terms and Conditions which may apply;
- b. an Act of Insolvency occurs in respect of the Client;
- c. the Client dies or becomes of unsound mind;
- d. the Client (or any custodian acting on its behalf) disaffirms, disclaims or repudiates any obligation under these terms or any guarantee, hypothecation agreement, margin or security agreement or document, or any other document containing an obligation of the Client towards the Company supporting any of the Client’s obligations under these terms;
- e. any representation or warranty made or given or deemed made or given by the Client proves to have been false or misleading in any material respect as at the time it was made or given or deemed made or given;
- f. any action is taken or event occurs which the Company considers that might have a material adverse effect upon the Client’s ability to perform any of its obligations under these terms;
- g. the Client takes advantage of delays in respect of prices, places orders at outdated prices, trades at off-market prices and/or outside trading hours, manipulates the system

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to trade at prices not quoted to it by the Company and performs any other action that constitutes improper trading;

- h. any litigation is commenced between the Company and the Client;
  - i. the Client persistently acts in an abusive manner when dealing with the Company;
  - j. any event of default (however described) of the Client occurs under any other agreement between the Company and the Client; and/or
  - k. any of the above occurs in relation to dealings with any of the Company's Associated Companies.
- 28.2 On the occurrence of an Event of Default, the Company may close any or all of the Client's Accounts or suspend any or all of the Client's Accounts and may exercise the Company's rights under this clause, except that in the case of the occurrence of the events set out in (b) above, in which case termination becomes effective automatically without the need for a notice to be given by the Company.
- 28.3 At any time following the occurrence of an Event of Default (other than pursuant to (b) above), the Company may, by giving notice to the Client, specify a date (the "Liquidation Date") for the termination and liquidation of Transactions in accordance with the following provisions. In the case of (b) above, the Liquidation Date is deemed to be the date of the occurrence of the Act of Insolvency.
- 28.4 Upon the occurrence of a Liquidation Date:
- a. Neither of the Clients shall be obliged to make any further payments or deliveries under any Transactions which would, but for this clause, have fallen due for performance on or after the Liquidation Date and such obligations shall be satisfied by settlement (whether by payment, set-off or otherwise) of the Liquidation Amount (as defined below);
  - b. On, or as soon as reasonably practicable after the Liquidation Date, the Company shall determine (discounting if appropriate), in respect of each Transaction, the total cost, loss or, as the case may be, gain, in each case expressed in the base currency, being United States Dollars ("Base Currency"), and if appropriate, including any loss of bargain, cost of funding or, without duplication, cost, loss or, as the case may be, gain as a result of the termination, liquidation, obtaining, performing or re-establishing of any hedge or related trading position) as a result of the termination, pursuant to these terms, of each payment or delivery which would otherwise have been required to be made under such Transaction (assuming satisfaction of each applicable condition precedent and having due regard, if appropriate, to such market quotations published on, or official settlement prices set by

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the relevant exchange as may be available on, or immediately preceding, the date of calculation); and

c. The Company may close all Client's open positions and cancel any orders made by it , and may combine and consolidate the Client's cash balance and any Accounts which the Client has with the Company and set off its cash balance and amounts owed by the Company to the Client, against amounts owed by the Client to the Company, including any profits or losses from its open positions with the Company, interest, costs, expenses, charges and all liabilities or amounts of whatever nature. The Company may convert in any currency, amounts owed to the Client and amounts owed by the Client to the Company, including any profit or loss under any of the Client's open positions with the Company, to the Company's Base Currency. Such currency conversions will be made at prevailing market rates reasonably available to the Company, and the Company is entitled to charge the Client all commissions and costs incurred by the Company in making such conversion.

28.5 The Company shall treat each cost or loss to it, determined as above, as a positive amount and each gain by the Company, so determined, as a negative amount and aggregate all of such amounts to produce a single, net positive or negative amount, denominated in the Base Currency (the "Liquidation Amount").

28.6 If the Liquidation Amount determined pursuant to this clause is a positive amount, the Client shall pay it to the Company and if it is a negative amount, the Company shall pay it to the Client. The Company shall notify the Client of the Liquidation Amount, and by whom it is payable, immediately after the calculation of such amount.

28.7 Where termination and liquidation occurs in accordance with this clause, the Company shall also be entitled, at its discretion, to terminate and liquidate, in accordance with the provisions of this clause, any other Transactions entered into between the Company which are then outstanding.

28.8 The Liquidation Amount shall be paid in the Base Currency by the close of business on the Business Day following the completion of the termination and liquidation under this clause (converted as required by applicable law into any other currency, any costs of such conversion to be borne by the Client, and (if applicable) deducted from any payment to the Client). Any Liquidation Amount not paid on the due date shall be treated as an unpaid amount and bear interest, at the average rate at which overnight deposits in the currency of such payment are offered by major banks in the London interbank market as of 11.00 a.m. (London time) (or, if no such rate is available, at such reasonable rate as the Company may select) plus one (1%) per annum for each day for which such amount remains unpaid.

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- 28.9 For the purposes of any calculation hereunder, the Company may convert amounts denominated in any other currency into the Base Currency at such rate prevailing at the time of the calculation as it shall reasonably select.
- 28.10 Unless a Liquidation Date has occurred or has been effectively set, the Company shall not be obliged to make any payment or delivery scheduled to be made by it under a Transaction for as long as an Event of Default or any event which may become (with the passage of time, the giving of notice, the making of any determination hereunder, or any combination thereof) an Event of Default with respect to the Client has occurred and is continuing.
- 28.11 The Company's rights under this clause shall be in addition to, and not in limitation or exclusion of, any other rights which the Company may have (whether by agreement, operation of law or otherwise).
- 28.12 This clause applies to each Transaction entered into or outstanding between the Client and the Company on or after the date this Agreement takes effect.
- 28.13 This Agreement, the particular terms applicable to each Transaction entered into under this Agreement, and all amendments to any of them shall together constitute a single agreement between the Company and the Client. The Company and the Client both acknowledge that all Transactions entered into on or after the date the Investment Services Agreement takes effect are entered into in reliance upon the fact that the Investment Services Agreement and all such terms constitute a single agreement between the Company and the Client.
- 28.14 Upon the occurrence of an Event of Default or at any time the Company so determines, in its absolute discretion, that the Client has not performed (or the Company reasonably believes that the Client will not be able or willing in the future to perform) any of the Client's obligations to the Company, in addition to any rights as set out above, the Company shall be entitled, without prior notice to the Client:
- a. Instead of returning to the Client investments equivalent to those credited to its Account, to pay to the Client the fair market value of such investments at the time the Company exercises such right;
  - b. To sell such of the Client's investments as are in the Company's possession or in the possession of any nominee or third party appointed under or pursuant to these terms, in each case as the Company may in its absolute discretion select or and upon such terms as the Company may in its absolute discretion think fit (without being responsible

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for any loss or diminution in price) in order to realize funds sufficient to cover any amount due by the Client hereunder;

- c. To close out, replace or reverse any Transaction, buy, sell, borrow or lend or enter into any other Transaction or take, or refrain from taking, such other action at such time or times and in such manner as, at the Company's sole discretion, the Company considers necessary or appropriate to cover, reduce or eliminate any loss or liability under or in respect of any of its contracts, positions or commitments; and/or
- d. To cancel and/or consider void any Transactions and profits or losses either realized or unrealized and/or to close out the Account(s) the Client maintains with the Company pursuant to these terms, immediately and without prior notice.

## **29 Exclusion and restriction of liability**

- 29.1 Without prejudice to the limitation or exclusion of liability pursuant to other provisions in these terms, if, in the course of provision of Services under these terms the Client suffers or incurs any loss, damage or liability as a result of bad faith or fraud on the part of the Company, or of its employees, officers or directors, then the Company shall be liable to the Client for that loss, damage or liability but shall not be liable for loss, damage or liability resulting from any other cause. The Company limits its liability to the fullest extent permitted under the Applicable Provisions.
- 29.2 In no circumstances will the Company or its employees, officers or directors be liable, whether in contract, tort (including negligence) or otherwise, for any consequential, indirect or incidental losses, or special or punitive damages, however they arise, even if advised of the possibility of such damages or losses.
- 29.3 The Company accepts no responsibility or liability for any breaches which the Client may incur with respect to any investment restrictions to which the Client or its principal may be subject, regardless of whether the Company has been provided with prior notice of such investment restrictions.
- 29.4 The Company shall not be liable to the Client for the insolvency of, or loss caused by the actions or omissions of a third party including any nominee, custodian, bank, Platform Service Provider or other third party appointed by the Company in good faith. In case of insolvency of the third party and depending on the laws of the jurisdiction of such third party, the Client acknowledges and accepts to bear the risk that the relevant assets held with that third party may be lost.

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29.5 If a claim is made by or against the Company, the Company's employees, officers or directors, by or against any third party in connection with these terms or the Services provided under them, the Client will provide the Company or the Company's employees, officers or directors with such assistance, documents and information in such form as may reasonably be requested by the Company.

29.6 The Company shall not be liable to the Client for any partial or non-performance of the Company's obligations hereunder by reason of any cause beyond the Company's reasonable control, including without limitation any breakdown, delay, malfunction or failure of transmission, communication or computer facilities, industrial action, act of terrorism, acts of God, acts and regulations of any governmental or supra national bodies or authorities or the failure by the relevant intermediate broker or agent, agent or principal of the Company's custodian, sub-custodian, dealer, exchange, clearing house or regulatory or self-regulatory organization, for any reason, to perform its obligations.

29.7 Limitation of Liability in respect of third party services

Where the Company offers to its Clients the opportunity to use and/or benefit from third party services in any way it deems appropriate, it accepts NO RESPONSIBILITY and NO LIABILITY as to the content provided by the third party or as to the consequences of the use of the service. The Client uses any of the third-party service and/or the information provided by third party service for marketing purposes and/or otherwise, upon its sole discretion and responsibility, undertaking all liability deriving from the use of the third-party service. To that extent, Clients are encouraged to seek advice and/or training prior to using the services or information provided making sure that it fully understands the Financial Instruments, technical terms and descriptions provided. Please note that the Company is not in a position to provide such advice. The Services which the Company provides to the Client through the Platform Service Providers are not considered third party services within the meaning of this paragraph.

Whist the Company limits and excludes its liability to the fullest extent permitted by law, nothing in this Agreement excludes or restricts any duty or liability the Company may have to the Client under Applicable Provisions, which may not be excluded or restricted thereunder.

### **30 Indemnity**

30.1 Without prejudice to any other provisions contained in these terms for indemnifying the Company, the Client will indemnify, and keep indemnified, the Company and any of the Company's employees, officers and directors (each, for the purposes of this clause an "Indemnified Person") against all present, future, contingent or other costs, expenses (including reasonable legal expenses), damages, liabilities and losses which such

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Client's Initials .....



Indemnified Person may suffer or incur in connection with or arising out of these terms and any Transaction effected on the Client's instructions. The Client will not be required to indemnify any Indemnified Person to the extent that any such costs, expenses, damages, liabilities and losses result directly from the bad faith, willful default, fraud or negligence of the Indemnified Person.

- 30.2 This indemnity shall survive termination of these terms or any other terms agreed between the Company.
- 30.3 Neither the Company nor the Client shall be liable to the other:
- (a) for any indirect or consequential loss suffered by the other party; or
  - (b) to the extent that any loss exceeds the amount due in respect of the Services provided by the Company, unless such loss is caused by a breach or delay in performance by the one party of its obligations under the relevant agreement, and such party has received notice in writing at any time before the breach or delay that such breach or delay could cause such a loss to the other party, in which case, the breaching party shall be liable to the other party for such loss.

### **31 Specific performance and force majeure**

- 31.1 If any action or proceeding is brought by or against the Company, against or by a third party, in relation to any transaction which the Client entered into pursuant to these terms, the Client shall cooperate with the Company to the fullest extent possible in the prosecution or defense of such action or proceeding.
- 31.2 A failure by either of the Company or the Client to perform or delay in performing any of its obligations under these terms will be excused if either party was prevented by events beyond that party's control and affecting persons buying and selling the relevant financial instruments generally. Such events shall include, any law, order, regulation or threat of any governmental or other authority prohibiting activities which are the subject of these terms or which prevent completion of the Transaction. They also include failure of any relevant correspondent or other agent of the Company, sub-custodian, dealer, exchange, clearing house or regulatory or self-regulatory organization for any reason to perform its obligations. The affected party shall use its best efforts to limit, as far as possible, any negative consequences of the aforesaid force majeure events.
- 31.3 In case of an emergency or exceptional market condition(s) the Company shall also be entitled to close out any or all of the Clients' Transactions.

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**32 Instructions, representations, warranties and undertakings**

32.1 The Company shall not be bound to act in accordance with the instructions of any person other than the Client or an Authorized Representative of the Client (without prejudice to the provisions of clause 8 “Authorized Representatives” above) as the case may be and the liabilities of the Company hereunder shall be fully discharged by performing the same for the Client, notwithstanding (a) any instructions that the Company may receive from any principal, or (b) any written notice that the Company may receive that the authority of the Client to act on behalf of its principal has been revoked or varied or is otherwise invalid with regard to any transactions executed prior such notice is received by the Company.

32.2 The Client represents, warrants and undertakes that:

(a) it has full power, authority and capacity to enter into and perform its obligations pursuant to these terms, to instruct the Company in relation to any Transaction(s) and to grant the Company the authorities contained in or given pursuant to these terms. Any instructions the Client gives to the Company must comply with the Applicable Provisions and will be legally binding upon the Client;

(b) except where the Client is the trustee of a trust, the Client is, or where the Client is acting as agent, the Client’s principal is, the beneficial owner of all financial instruments which are held pursuant to these terms free from all liens, charges and encumbrances other than those that may arise in the Company’s favor;

(c) the Client has, and where the Client is acting as agent, the Client’s principal has, all necessary consents, licenses, governmental and regulatory approvals and authorizations to enable the Client or the principal, as appropriate, to enter into, perform and comply with the Client’s, and where the Client is acting as agent, with the Client’s principal’s obligations under these terms and the Client shall provide the Company with copies or other evidence of such consents, licenses, approvals and authorizations as the Company may reasonably require;

(d) in accepting these terms, the Company has not made, and the Client is not relying upon any statements, representations, promises or undertakings that are not contained in these terms or the Investor Information Document;

(e) the Client is not and will not be at any time when it gives instructions for the purchase or sale of any financial instrument, or offers to do so, an affiliate of the issuer (including, in the case of convertible or exchangeable securities, the issuer of the underlying security) unless the

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Client’s Initials .....

Client informs the Company otherwise in writing prior to giving the Company an instruction to buy or sell any such Financial Instrument, or offers to do so;

(f) the Client is expressly authorized by its principal to enter into these terms, instruct the Company in relation to transaction(s) entered into, under or in connection with these terms and to confer on the Company the authorities contained in or given by these terms;

(g) where the Client is acting as trustee:

(i) the Client is absolutely entitled to pass full legal and beneficial ownership of any Financial Instruments transferred pursuant to these terms or any transaction entered into, under or in connection with these terms; and

(ii) the Client is not in breach of trust in entering into these terms and each transaction entered into under or in connection with these terms and it has the right to be indemnified out of the assets of the trust for all obligations under these terms and each Transaction;

(h) the Company has made available to the Client through its website and in reasonable time before entering into the Investment Services Agreement, information relevant to these terms, including:

(i) a copy of these terms;

(ii) the name of the Company and its contact details;

(iii) details of the language in which the Client may communicate with the Company and the language in which the Client will receive information and client related documentation from the Company;

(iv) the methods of communication with the Company;

(v) the fact that the Company is a regulated entity as well as details of the Company's regulator and its contact address;

(vi) notice of any of the Company's services being provided through tied agents;

(vii) the Company's reporting obligations to the Client, including obligations to inform the Client of the Company's fees and charges, and the frequency of such reporting obligations;

(viii) safe custody procedures of the Client's financial instruments and cash as well as information regarding the Investor Compensation Fund available to Retail clients of investment firms;

(ix) a description of the Company's Conflicts of Interest Policy and where the Client can get full details of such Conflicts of Interest Policy;

(x) details of the risks associated with financial instruments.

(xi) privacy and personal data protection policy.

The Client understands and accepts that the Company's Services to the Client may in the future be provided by a natural or legal person who is acting as the Company's tied agent.

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32.3 The Company represents and warrants that:

- (a) it has full power, authority and capacity to enter into and perform its obligations pursuant to these terms which are to be legally binding upon the Company; and
- (b) it has all necessary consents, licenses, governmental and regulatory approvals and authorizations to enable it to enter into, perform and comply with its obligations under these terms and any Transaction.

32.4 The warranties contained in this clause will be deemed to be repeated each time the Client gives the Company an order or instruction under these terms.

32.5 The Company shall assume that no changes have taken place with respect to the Client's details provided to the Company unless the Company receives written advice from the Client of such changes.

32.6 All representations made herein or in the Investment Services Agreement (including representations made in other forms or other documents attached to the Investment Services Agreement or provided pursuant thereto) or in any document provided by the Client pursuant to section "Information" herein below, shall be deemed to be continuous representations and without prejudice to any right which the Company may have pursuant to these terms or otherwise, it shall be the obligation of the Client to keep the Company informed of any change thereto.

### **33 Conflicts of Interest**

33.1 The Client represents and acknowledges that it has read and understood the Company's Conflict of Interest Policy available through the Company's website.

33.2 The Client acknowledges and accepts that the Company will provide Services to the Client on the basis of information actually known to particular employees responsible for handling such Client's affairs; and that as a result of the Company's relationship with other Clients and with connected companies, the Company may in some circumstances be unable to execute transactions with or for the Client, in relation to particular Financial Instruments and shall not be obliged to disclose the reason for this or any further related information.

33.3 The Client agrees that the Company may provide Services to, or may effect Transactions with or for the Client, without prior reference to the Client, notwithstanding that the Company may have a material interest in or a conflict of duty in relation to the Transaction or investment concerned and consents to the Company acting in a manner which it would

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consider appropriate in such circumstances. Such circumstances may include, without limitation, where the Company or an Associated Company may be and/or may have been and or may be seeking to:

- i. trade (or may have traded) for or on behalf of other clients, have either a short or long position in the investment/financial instrument concerned or other investment/financial instrument or otherwise pursue their legitimate business in connection with the investment/Financial Instrument concerned or related or other investment/Financial Instrument;
- ii. buy and sell units in a collective investment scheme whereby the Company or an Associated Company is the trustee or operator or advisor to the scheme;
- iii. have other business relationships with the Company or related entity in relation to the Financial Instruments of which the Client is entering into Transactions;
- iv. deal as agent on the Client's behalf with a person connected to the Company or conduct an agency cross by matching the Client's order with that of another person (which may be connected to the Company)
- v. execute hedging transactions prior to (i.e. in anticipation of) or following receipt of an order or information concerning a contemplated order or Transaction from the Client or someone acting on the Client's behalf in order for the Company to manage its risk in relation to Transactions which the Client is entering into or contemplating entering into, or the Company may execute Transactions in order to facilitate execution of the Client's order or manage the Company's own dealing activities, all of which may have an impact on the price that the Client shall pay or receive in relation to such Transactions and any profits generated by such hedging or other transactions may be retained by the Company or an Associated Company without reference to the Client;
- vi. enter into transactions, including for pre-hedging purposes with a view to executing or facilitating the execution of the proposed transaction/s based on information provided by the Client and/or any information held by the Company or an Associated Company regarding the Client's previous trading when bid information is provided to the Company. Such transactions may impact the prices which the Client obtains when it trades with the Company or other firms;
- vii. pay any fee to any third party with whom the Client's order is placed for execution, and be entitled to receive any amount in the form of commission or otherwise from any third person in relation to any Services provided.

## **34 Taxes**

34.1 All sums payable by the Client under these terms will be paid free and clear of any Taxes, unless the Client is required by law to withhold or deduct Tax. In this case, unless the Company agrees otherwise, the Client will pay an additional amount so that the Company

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receives an amount after withholding or deduction of Tax that equals the amount that the Company would have received without such withholding or deduction.

- 34.2 The Client is responsible for paying any Taxes due and making claims relating to Taxes (such as for exemption from withholding Tax), for filing any Tax returns and for providing information to the Tax authorities in relation to any business the Company carries on with or for the Client.
- 34.3 The Company will use its reasonable endeavors to forward to the Client any Tax documents it receives that relate to the Client or monies or Financial Instruments held by the Company for the Client.
- 34.4 Taxes payable by the Client depend on the Client's circumstances as well as the specifics of the financial instrument concerned in the relevant jurisdiction. The Client undertakes that it has access to independent tax advice. Tax rates and Tax treatment of the Client's financial instruments (including profits arising there from) may be subject to change and it shall be the Client's responsibility to ensure it is fully informed of such changes on an ongoing basis.

## **35 FATCA**

- 35.1 In compliance with the Agreement between the Government of the United States of America and the Government of the Republic of Cyprus to Improve International Tax Compliance and to Implement FATCA, the Company is required to submit certain information relating to US Persons to the Cyprus Tax Authorities that will in turn provide the information to the IRS.
- 35.2 The nature of the information (the "Disclosure Requirements") which the Company will be required to submit may include (but shall not be limited to) the US Person's name, address, Account number, US tax identification number, Account balance and payments made with respect to the Account.
- 35.3 If the Company is required by FATCA or any related rule, law or regulation (the "FATCA Rules") to file or disclose information related to the Client, including but not limited to that information outlined in the above Disclosure Requirements, the Company may disclose such information, and the Client hereby authorizes the Company to do so without the Client's further confirmation or consent.
- 35.4 If any information is required by the FATCA Rules or by any regulatory or governmental authority in relation to FATCA, the Client within fifteen (15) Business Days undertakes to

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provide the Company with such information in order to allow the Company to comply with the request for further information and/or to comply with the FATCA Rules.

35.5 The Client shall advise the Company promptly of any material developments or changes in the Client's circumstances which may affect the Company's reporting obligations under the FATCA, specifically:

- (a) For individuals – if the Client becomes a US Person;
- (b) For legal entities – if any of the existing beneficial owners of 10% or more of the Client's share capital becomes a US Person, or if any US Person becomes a beneficial owner in the share capital of the Client.

35.6 The Company will continue to treat the Client as being FATCA-reportable unless and until the Company receives confirmation from the Client which in the Company's assessment, acting reasonably, indicates a change of status of the Client for FATCA reporting purposes.

35.7 The Client hereby acknowledges and confirms its obligation to provide the Company with information pertaining to its identity and to whether it qualifies as a US Person as well as of any other FATCA related information that may be reasonably requested by the Company in relation to the Disclosure Requirements. Furthermore, the Client acknowledges and accepts that where failure to provide the Company with such information result in any fines or penalties, it will be liable for full payment of these and at all times indemnify the Company in full for any fines and penalties as well as for any reasonable costs incurred in defending any action by the IRS or other relevant authorities.

## **36 CRS**

36.1 The Common Reporting Standards ("CRS") is the standard for the Automatic Exchange of Information (AEOI) developed by the Organization for Economic Co-operation and Development (OECD). Cyprus has signed the Multilateral Competent Authority (MCAA) for CRS as an early adopter.

36.2 Under CRS the Company is required to ascertain the tax residency of its Clients and report certain information to the national tax authority of the Clients as may be required under CRS. Information is obtained via self-certification.

36.3 The Client hereby consents to the collection of the information which the Company is required to gather in order to identify reportable accounts and report them accordingly to the Cyprus tax authorities. In turn, the Cyprus tax authority will exchange information

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with the tax authorities of jurisdictions which are reportable for CRS purposes (“Reportable Jurisdictions”).

36.4 Without a self-certification, the Company is legally obliged to consider the account holder as a reportable person (“Reportable Person”). As a consequence, undocumented account holder information will be reported to the relevant tax authorities.

36.5 The Company shall inform individual Reportable Persons that their information will be collected and transferred taking into account its Clients rights under the applicable data protection legislation.

36.6 The Company express no opinion as to any Client’s tax position and the Client may need to consider professional advice if it is not sure about its personal tax circumstances.

### **37 Information**

37.1 Without prejudice to any of the above provisions, the Client shall supply to the Company, forthwith upon demand, such financial and other information as it may reasonably request and shall promptly notify the Company of any change in any information so supplied. Without limitation, such information may include evidence reasonably satisfactory to the Company as to the Client’s identity, management, financial profile and ownership and such other matters as the Company may require in order to comply with the Applicable Provisions or the Company’s policies relating to such rules or information with respect to the Client’s financial instruments or the Client’s ability to perform its obligations hereunder (collectively “the Client’s Information”).

37.2 The Company, its Associated Companies, and/or other persons acting on the Company’s or their behalf may collect information relating to the Client, its investments and/or the Company’s relationship with the Client, (the Client’s Information):

- (a) directly from the Client;
- (b) through the Client’s agents; and
- (c) from other information sources.

### **38 Processing of personal data**

38.1 The Client’s personal data are processed by the Company in accordance with the provisions of the EU General Data Protection Regulation (“GDPR”) and law 125(I)/18 of the Republic of Cyprus supplementing the GDPR.

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- 38.2 The processing of the Client's personal data by the Company is required to enable it to perform its obligations under the Investment Services Agreement entered into with the Client and any other relevant contracts executed by the Company to facilitate the provision of services to the Client (e.g. contracts with third party agents), for the purposes of pursue of the legitimate interests of the Company, for the Company to comply with its legal obligations arising from, inter alia, the Prevention of Money Laundering and Terrorist Financing regulatory framework and for the exercise and defence of legal claims made by or against the Company.
- 38.3 The Client's personal data which were freely given to the Company by the Client during the on-boarding process may be transferred not only within the EU or the European Economic Area, but also worldwide to the following third parties:
- (i) administrators, auditors, bank Institutions, agents, contractors, stock or security exchanges or clearing houses and other third-party service providers such as settlement agents or sub-custodians;
  - (ii) regulators, tax authorities, stock or security exchanges and other supervisory, regulatory, governmental or public bodies as required by the law;
  - (iii) credit reference, fraud prevention, other similar agencies, as well as other financial institutions with whom information is shared for credit and money laundering checking and fraud prevention purposes.
- 38.4 It is noted that not all countries, including the United States of America, have a level of protection of personal data protection equal to the one applied in the EU or the European Economic Area. If the Client opts the execution of transactions involving Financial Instruments which are listed or traded in the United States of America, the Company may have to transmit the Client's Information to entities based/situated in the United States of America. There may be cases where a counterparty with which the Company transacts or trades for the Client, may request for regulatory purposes, to be provided with personal data of the Client processed by the Company. The Company will not transfer any personal data to a third country unless the European Commission has adopted an adequacy decision on the level of protection of the personal data afforded by that third country.
- 38.5 In order for the Company to comply with its legal obligations deriving from the applicable AML legislation, it will need to verify the authenticity of the identification documents (i.e. ID/Passport) provided to it by the Client. In this regard, the Company will disclose (directly or indirectly) such identification documents provided to it by the Client to reputable and recognized third party service provides within the European Union for authentication purposes. In doing so and in order to ensure that the Client's personal data undergoing process are protected to the fullest extent possible, the Company will enter into a written

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agreement, namely a Data Processing Agreement, with the third party service provider (the “Data Processor”).

- 38.6 The Company will not retain any personal data of the Client for longer than is required for the specific purposes for which such personal data are collected. More specifically and in order to comply with the obligations imposed on it by the applicable AML legislation, the Company will retain the Client’s personal data for at least five (5) years after the termination of the business relationship with the Client.
- 38.7 The Client has the right to request from the Company access to the personal data held by the Company for that Client. In this respect, the Client is entitled to receive from the Company free of charge, a copy of the personal data concerning that Client undergoing process. The Company reserves the right to charge a reasonable fee based on administrative costs, where the Client requests additional copies.
- 38.8 Further to the above, the Client has the right to require from the Company to have any personal data held for the Client corrected, where these are inaccurate. The Client has also the right to request erasure of personal data, the restriction of their processing, to object to processing, as well as a right to data portability.
- 38.9 Where the processing of the Client’s personal data is based on the Client’s consent, the Client may, at any time, withdraw the consent given. For more information regarding the processing of the personal data of the Client by the Company or its Affiliates, or if the Client wants to exercise any of the rights mentioned above (including withdrawal of consent), the Client can contact the Data Protection Officer of the Company at [dpo@fidusinvestments.eu](mailto:dpo@fidusinvestments.eu), to whom the Client may also refer any complaints about the processing of such data. The full contact details of the Company’s Data Protection Officer can be found at the updated Privacy and Personal Data Protection Policy of the Company, which is available through the Company’s website. If the Client is not completely satisfied with the way the complaint has been dealt with by the Company, the Client can lodge a complaint with the local Data Protection Commissioner.
- 38.10 The Company is obliged under the EU GDPR to ensure that the processing of personal data in its possession is performed in accordance with the provisions of the said Regulation. The Client undertakes to inform the Company promptly upon any change to the Client’s personal data.
- 38.11 Processing of the Client’s Personal Data by the Company or any Associated Company is subject to the confidentiality provisions set out below.

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38.12 The Client agrees that the Company may, from time to time and pursuant to these Terms, contact the Client directly by telephone, fax, e-mail or otherwise without the Client's express invitation. The Client consents to the initiation of communication by the Company as above and acknowledges that such communication shall not constitute breach of any of the Client's rights under any applicable law or regulation.

### **39 Confidentiality and trade reporting**

39.1 The Company need not to disclose to the Client any fact, matter or thing:

- (a) if any disclosure would or might be a breach of duty of confidence to any other person; or
- (b) which comes to the notice of an officer, employee or agent of the Company or of any associate, but which does not come to the actual notice of the individuals or individual dealing with or for the Client.

39.2 The Company undertakes to keep all information it receives in connection with these terms private and confidential, even when the Client ceases to be a client of the Company. Such information will not be disclosed to any person except to the extent that:

- (a) the Client gives the Company its prior consent, which need not be in written form; or
- (b) the Company is required to disclose the information to CySEC, to a regulated market with which the Company or an Associated Company are engaged to members of the police, or any other regulatory authority or Court having jurisdiction over the Company;
- (c) when the disclosure is made in compliance with any Applicable Provisions or in compliance with a court order;
- (d) when the disclosure is made as part of legal proceedings;
- (e) when the disclosure is made in the public interest or is necessary for the purposes of a legitimate interest pursued by the Company;
- (f) when an Act of Insolvency commences against the Client.

39.3 Under the Applicable Provisions, the Company may be obliged to make information about certain transactions public or report transactions. The Client agrees and acknowledges that any and all proprietary rights in such transaction information are owned by the Company and the Client waives any duty of confidentiality attaching to the information which the Company discloses. The Client agrees that CySEC may submit information received to regulators on a European level for further processing and analysis.

39.4 The Company and/or other persons on the Company's behalf may record communications (including e-mail, instant messaging, facsimile, telephone and other electronic communications) with the Client or the Client's agent(s) for quality control and security purposes, as a record of the Client's orders, instructions and related matters and in order

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to comply (and monitor compliance) with the Applicable Provisions, these terms and any applicable policies and procedures.

39.5 These records shall be prima facie evidence of any orders or communications monitored or recorded and the Client agrees that such records shall be admissible as such in any legal proceedings. Furthermore, the Client confirms that it will not use, file, or cite as a reason for objecting to the admission of the Company's records as evidence in any legal proceedings either that the Company's records are not originals, are not in writing or are documents produced by a computer.

39.6 The Company will retain records in accordance with the Company's operational procedures which may change from time to time in the Company's absolute discretion. The Client shall not rely upon the Company to comply with the Client's record keeping obligations and that the Client should keep adequate records in accordance with any applicable law and regulations to which the Client is subject.

#### **40 Acknowledgment of Risks**

40.1 The Client hereby acknowledges and accepts that regardless of any information which may have been provided by the Company or any statement made by the Company, the value of any Financial Instrument may fluctuate either upwards or downwards and such investment may even be rendered valueless.

40.2 The Client irrevocably acknowledges and accepts the existence of a high risk of incurring losses and damages as a result of dealing in any Financial Instrument and acknowledges and declares that it is prepared to take such risk.

40.3 The Client hereby represents and undertakes that it has read and understood the risk warnings set out in the Investor Information Document and accepts that there may be risks other than those mentioned in the aforementioned risk warning and requests the provision of Services on the basis of such knowledge and understanding.

#### **41 Set-Off**

41.1 The Client agrees that the Company's right of set off shall extend to include a continuing right at any time at which any amount is due to the Company and without any prior notice or demand forthwith to transfer, combine and consolidate and/or set off all or any part of the funds now or in the future, standing to the credit of the Client on any account held with the Company, and to apply the same in or towards payment or satisfaction of:

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- a) the amounts required for the purposes of execution of any trade which the Company agrees to execute pursuant to the Client's order; and
- b) all costs charges and expenses howsoever incurred by the Company in relation to Services provided under these terms, and
- c) the fees charged by the Company in relation to the execution of any such trade, in each case whether as principal or surety and in whatever name, style or form including all interest, discount, commission, fees and all other charges and expenses.

## **42 Notices**

42.1 Any instructions or requests to be given by the Client, or demands or confirmations to be given by the Company may be given in writing or, where permitted under the Applicable Provisions, orally. Any notice (including, without limitation, any confirmation or demand) may be given by post, internationally recognized courier, personal delivery, facsimile transmission or any other electronic transmission, or where permitted under the Applicable Provisions, orally.

42.2 Notice will be deemed to be given as follows:

- (i) Post: on the date of receipt;
- (ii) Internationally recognized courier: on the date of receipt;
- (iii) Personal Delivery: upon delivery;
- (iv) Facsimile transmission: upon receipt;
- (v) Other electronic transmission: upon receipt;
- (vi) Orally: once the relevant party has stated orally, over a recorded telephone line, to the other party that such notice is being given

42.3 In proving service of notice, it will be sufficient to prove, in the case of delivery by post, that the letter was correctly addressed and was posted first class or, where appropriate, air mail or, in the case of delivery otherwise than by post (including courier and electronic transmission), that it was sent to the correct destination. In proving oral notice, sufficient evidence will be the tape recording of the telephone conversation.

42.4 Any confirmation or account statement which the Company gives in writing will be deemed correct, conclusive and binding on the Client if not objected to in writing within the earlier of (a) five (5) Business Days of dispatch by the Company by post; (b) three (3) Business Days of dispatch by the Company by facsimile or other electronic transmission.

42.5 The Company's address, contact e-mail addresses and facsimile number are provided in the Investor Information Document. The Client's address at which the Company may

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communicate with the Client for these purposes is the one set out at the beginning of the Investment Services Agreement unless otherwise notified to the Company in writing. The Client agrees to immediately inform the Company in the event that the Client's address changes.

- 42.6 The provisions of this paragraph are without prejudice to the means of communication set out in Appendix 1 of the Investment Services Agreement.
- 42.7 Nothing in these terms will affect the right of either party to initiate process in any other manner permitted by applicable law.
- 42.8 The Client consents to the Company providing the Client with information (such as any updated versions of these terms) by means of the Company's website.
- 42.9 The Company will ask the Client to provide the Company with an e-mail address where the Company can contact the Client and the Company will notify the Client by e-mail of the Company's website address and the location on the website where such information may be found as per the provisions of Appendix 1 of the Investment Services Agreement.
- 42.10 Where the Client provides to the Company the name and contact details of a person to whom the Company may communicate information regarding the Company's services, costs and associated charges, information about the nature and risks of financial instruments, information concerning the safekeeping of any of its assets, changes in any information contained in any policy of the Company which the Company is required to provide to the Client under the Applicable Provisions, changes in the Investor Information Document (including any updated versions of such Investor Information Document) and any changes in the Company's terms and conditions or any other terms of any agreement between the Client and the Company (including any updated versions of such terms and conditions), then communications to such person/s of the above information shall be deemed to have been duly notified to the Client.

### **43 Amendments**

- 43.1 No alteration to these terms will have effect unless issued or agreed by the Company in writing. The Company reserves the right to amend or supplement the terms of the Company's relationship with the Client by issuing to the Client further schedules and/or a revised version of these terms. Any amendment or supplement will, unless the Company receives written notice from the Client objecting, take effect when it is deemed to have been notified to the Client in accordance with clause 42 "Notices" above, or such period as the Company may specify, and will apply in respect of any commitment or Transaction

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entered into by the Company after such effective date. Acceptance of any such amendment may be effected in writing or pursuant to the Client's conduct if the Client continues to be provided with Services after such notification has been made.

#### **44 Termination**

44.1 Either the Client or the Company can terminate the Investment Services Agreement without penalty by giving notice in writing which will take effect ten (10) Business Days after the date on which the notice is given or after such other period as specified in the notice.

44.2 Termination of these terms will be without prejudice to the completion of transactions already initiated and will not affect accrued rights, any commitment already entered into by the Company for or with the Client and any provision of these terms which is capable by its terms of surviving termination (including the indemnity, data protection, exclusion and restriction of liability, warranty and security provisions). Such of these terms will continue to apply until all the Client's liabilities and obligations (actual and contingent) to the Company have been satisfied or discharged.

44.3 The term of the Investment Services Agreement shall commence on the date entered into between the Parties and shall continue indefinitely until terminated in accordance with this section.

44.4 Upon terminating the Investment Services Agreement:

- a. All amounts payable by the Client to the Company will become immediately due and payable including (but without limitation) all outstanding fees, charges and commissions; any dealing expenses incurred by terminating the Investment Services Agreement; and any losses and expenses realized in closing out any Transactions or settling or concluding outstanding obligations incurred by the Company on the Client's behalf.
- b. In the absence of any specific instructions from the Client as to the close out of the Client's open positions, the Company shall proceed to close out all Client's open positions at our price, in accordance with the provisions of our Order Execution Policy and our obligations under the Applicable Provisions.

#### **45 Assignment and transfer**

45.1 The Company shall be entitled to assign or transfer any or all of its rights or obligations under these terms (or any other agreement entered into between the Company and the

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Client) at any time, including any rights to any financial instruments of the Client held by the Company or a sub-custodian thereof under these terms, to an Associated Company without the Client's permission. The Company may delegate any of its functions under these terms to an Associated Company.

45.2 These terms will be binding on and come into effect for the Company's benefit and the benefit of, the Company's successors and assigns.

45.3 The Client shall not assign, charge or otherwise deal with any of its rights, interests and obligations here under without the prior written consent of the Company. Any purported assignment will be in breach of the Clients' obligations under these terms and will be invalid.

#### **46 Investor compensation fund**

46.1 The Client hereby confirms and acknowledges that it has received, read and understood the provisions set out in the Investor Information Document in relation to the Investor Compensation Fund and understands the terms of and extent of coverage (provided that the Client is an individual or entity eligible for coverage) under this scheme in relation to the Services which will be provided hereunder.

#### **47 Distance marketing of financial services to consumers**

47.1 Under the Distance Marketing of Financial Services to Consumers Directive (Directive 2002/65/EC), the Company is required to provide certain information in agreements entered into with consumers (an individual who is acting for private and not business, trade or professional purposes) that are concluded exclusively through means of distance communication (e.g. telephone, fax, mail or the internet).

47.2 To the extent that the Client is acting as a consumer, the Client will find most of the information that the Company is required to provide in these terms and / or in the Investor Information Document.

47.3 As the majority of the products and Services the Company provide are dependent upon fluctuations in the financial markets outside the Company's control, the Client will not be afforded any rights to cancel the Services provided under these terms once those services have been provided.

47.4 However, where the Client does have a right to cancel Services after they have been provided, this right to cancel will expire 14 calendar days after the Client receives these

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terms or is deemed to have received the products and/Services, whichever is later (“Cancellation Period”).

47.5 If the Client exercises its right to cancel, the Company will close all of the Client’s open positions and cancel all its orders and will return any amounts due to the Client, as adjusted to take into account the Client’s trading profits and losses as well as its liabilities to the Company including fees and charges due to the Company in accordance with the provisions contained herein. In cases of cancellation, the Client may be required to pay charges up to the date of cancellation. If the Client fails to exercise the Client’s right to cancel within 14 days, the Client will be bound by these terms.

#### **48 Miscellaneous**

48.1 These terms supersede any previous agreement between the Client and the Company on the same subject matter.

48.2 The Company’s rights and remedies, powers and privileges contained in these terms are cumulative and not exclusive of any rights or remedies provided by the Applicable Provisions. No failure to exercise or delay in exercising the Company’s rights will operate as a waiver of those rights, nor will any single or partial exercise preclude any other or further exercise of the Company’s rights.

48.3 Nothing in these terms shall affect the obligations which the Company has under the Applicable Provisions or under the regulatory system.

48.4 Unless the Client has advised the Company to the opposite, the Company shall consider that the Client consents to the Company providing to the Client, where appropriate, information relating to these terms and the Company’s services in general (including any additions and amendments thereto) through a durable medium other than paper.

48.5 Where the Client has provided the Company with an electronic mail address, the Company shall consider this as an authority to the Company to forward documents relating to these terms and transactions / services to this electronic mail address.

48.6 The Company will take measures that the Company believes to be appropriate to protect the confidentiality of information that the Company transmit to the Client over the internet. The Client acknowledges, however, that the internet is not a secure network and that communications submitted over the internet may be accessed by unauthorized or unintended third parties.

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48.7 If any regulated market (or an intermediate broker or agent, acting at the direction of, or as a result of action taken by such a regulated market) or regulatory body takes any action which affects any of the Client's transactions, then the Company may take any action which the Company, in the Company's reasonable discretion, considers desirable to deal with such action or to mitigate any loss incurred as a result of such action. Any such action shall be binding on the Client. If a regulated market or regulatory body makes an enquiry in respect of any transactions undertaken by the Client on the Client's own account or on behalf an underlying client of the Client, then the Client agrees to cooperate with the Company and to promptly supply information requested in connection with the enquiry.

48.8 From time to time, the Company may present the Client with a list of connected accounts, as the Company understands them. Failure on the Client's part to disavow any such account in writing may be taken as the Client's acceptance of responsibility for that account.

#### **49 Law and jurisdiction**

49.1 These terms and all schedules herewith (including for the avoidance of doubt the provisions of the Investment Services Agreement and the Appendices forming part thereof) and all non-contractual obligations arising in any way whatsoever out of or in connection with the services provided hereunder are governed by and shall be governed, construed and take effect in accordance with Cyprus Law.

49.2 Where the Client is a resident of a member state of the European Union or a country which is member thereof is the principal center of the Client's economic activities.

49.3 The Company and the Client respectively agree to submit to the non-exclusive jurisdiction of the Cyprus Courts for the determination of any dispute which arises between them relating to the subject matter of these terms.

49.4 Both the Company and the Client irrevocably waive any objection which they may have now or hereafter with respect to the venue of any proceedings in any such court as is referred to in this clause and any claim that any such proceedings have been brought in an inconvenient forum, and further irrevocably agree that a judgment in any proceedings brought in a Court of the Republic of Cyprus shall be conclusive and binding upon the Company and the Client and may be enforced in the courts of any other jurisdiction.

49.5 To the extent that the Client may be entitled in any jurisdiction to claim for itself or its property or assets, immunity in respect of the Client's obligations under these terms from service of process, jurisdiction, suit, judgment, execution, attachment (whether before

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judgment in aid of execution or otherwise) or legal process, the Client hereby waives such immunity to the fullest extent permitted by the laws of such jurisdiction.

49.6 The rights and remedies of the Company and the Client under these terms are cumulative and do not (save as expressly provided in these terms) exclude any rights or remedies provided by law. No failure to exercise or delay in exercising the same shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any further or other exercise thereof.

**50 Language**

50.1 These terms as well as the Investment Services Agreement and the Appendices and Schedules forming part thereof and any present or future amendments or schedules thereto, are constructed in the English language. In case of differences between the English documents and documents translated into another language, the Client agrees that the English version will prevail.

**51 Invalidity of provisions**

51.1 If at any time any provision of these terms is or becomes illegal, invalid or unenforceable in any respect under the law of any jurisdiction, the legality, validity or enforceability of the remaining provisions of these terms under the law of that jurisdiction or under the law of any other jurisdiction shall not be in any way affected.

- Name of Authorized Signatory.....
- Signature of Authorized Signatory.....
- Date: / /

**FOR COMPANY USE ONLY**

Witnessed by FIDUS Investments Cyprus Limited	
<b>Name:</b>	
<b>Signature:</b>	
<b>Date:</b>	

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