



## AGREEMENT FOR THE PROVISION OF DISCRETIONARY PORTFOLIO MANAGEMENT SERVICES

### ON THE BASIS

- A. The Investment Manager has been licensed and authorized by the Cyprus Securities and Exchange Commission (“CySEC”) as a Cyprus Investment Firm under the Law which Provides for the Provision of Investment Services, the Exercise of Investment Activities, the Operation of Regulated Markets and Other Related Matters – Law 87(I)/2017 with authority to provide Investment and Ancillary Services in accordance with its license number 115/10.
- B. The Client wishes to appoint the Investment Manager for the provision of the Service of Portfolio Management on a Discretionary Basis (as defined below) and the Investment Manager agrees to such appointment on the terms and subject to the conditions of this Agreement.
- C. The Client has completed the Suitability questionnaire and the Portfolio Manager has performed the mandatory assessment and informed the Client of its results.
- D. The Investment Manager has provided the Client with copies of its the applicable terms and conditions, risk disclosure, order execution policy and conflict of interest policy and other applicable appendices and schedules and the Client hereby acknowledges receipt of such information listed as Schedules/Appendices hereto.
- E. The Parties hereto have agreed to enter into this Agreement to set out the terms and conditions on which the Investment Manager will provide the services (as these are defined below) to the Client.

### THE PARTIES AGREE:

#### 1. Definitions and construction

1.1 This Agreement, the Schedules and each of the Appendixes are to be construed as one document constituting the terms and conditions on and subject to which the Client and the Investment Manager have agreed that the Investment Manager shall provide discretionary investment management services to the Client in relation to the Portfolio.

1.2 The following words and phrases have the following meanings when used in this Agreement:

**Agreement** means this agreement as described in clause 1.1 as amended from time to time.

**Appendix** means an Appendix to this Agreement.

**Assets** means Initial Assets and any other Financial Instruments and/or the funds that will be transferred by the Client to the Investment Manager during the period of the Agreement.

**Associate** means, in relation to the Investment Manager, any entity controlled directly or indirectly, by the Investment Manager, any entity that controls directly or indirectly, the Investment Manager, or any entity directly or indirectly under common control with the Investment Manager (for this purpose, “control” means ownership of a majority of the voting power of the Investment Manager or entity).

**Authorised Person** means any of the authorised representatives of the Client, appointed by the Client as such, pursuant to the client request form.



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**Best Execution** means any obligation which the Investment Manager has under the Law to act in the best interests of the Client and to take all reasonable steps to obtain the best possible result for its Client taking into account price, costs, speed, likelihood of execution and settlement, size, nature or any other consideration relevant to the execution of the order when effecting transactions on behalf of the Client in respect of the Portfolio.

**Business Day** means any day, other than a Saturday or Sunday or a public holiday, on which commercial banks and stock exchanges are open for business in the Republic of Cyprus.

**Client's account** means as account opened to the Client by Investment Manager for the purpose of this Agreement;

**Collective Investment Scheme** means a regulated collective investment scheme.

**Custodian** means the person referred to in clause 8.3 of this Agreement appointed from time to time as custodian in relation to all or part of the Portfolio.

**Effective Date** means the date set out by the Investment Manager to the Client in a certain confirmation of account opening subject to conditions precedent defined in clause 3 of this Agreement.

**Eligible Counterparty** means a type of client as defined by MiFID II, that is one of the following: investment firms, credit institutions, insurance companies, UCITS and their management companies, pension funds and their management companies, other financial institutions authorised or regulated under Union law or under the national law of a Member State, national governments and their corresponding offices including public bodies that deal with public debt at national level, central banks and supranational organisations, other undertakings meeting pre-determined proportionate requirements.

**Durable Medium** means any instrument which enables a client to store information addressed personally to that client, in a way accessible for future reference and for a period of time adequate for the purposes of the information and which allows the unchanged reproduction of the information stored.

**Financial Instrument** means any of the financial instruments established in accordance with MIFID II.

**High Watermark** means a benchmark the highest increase of the Value of the Client's Portfolio, used by the Portfolio Manager to set requirements for the Performance Fee.

**Hurdle Rate** means the reference rate of return on your portfolio under the Agreement on which no Portfolio Management Fee is charged.

**Initial Assets** means the Financial Instruments and/or the funds that will be transferred by the Client to the Investment Manager on commencement of the Agreement.

**Liability** means any liability, loss, charge, claim, proceeding, damage, judgment, enforcement, penalty, fine, fee, interest, cost or expense of whatsoever nature including, without limitation, attorney's fees and costs incurred after the commencement of or in connection with any bankruptcy or any insolvency proceeding.

**Losses** means (but is not limited to) losses, damages, costs, claims, liabilities, charges, demands and expenses.



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**Law** means Law 87(I)/2017 which provides for the Provision of Investment Services, the Exercise of Investment Activities, the Operation of Regulated Markets and other Related Matters, as amended and/or supplemented from time to time together with all and any of the directives issued by the Regulator in connection with Law 87(I)/2017.

**Delegated Regulation** means the Commission Delegated Regulation (EU) 2017/565 of 25 April 2016 supplementing Directive 2014/65/EU of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive.

**MiFID II** means the European Parliament and Council Directive 2014/65/EU of 15 May 2014 on Markets in Financial Instruments.

**MTF** means a multilateral trading facility operated by an investment firm or a market operator, which brings together multiple third-party buying and selling interests in Financial Instruments – in the system and in accordance with non-discretionary rules – in a way that results in a contract in accordance with the provisions of MiFID II.

**Notice Period** means a 10 (Ten) calendar days period where a Party must notify in writing the other Party prior to any amendments, termination or other actions under the Agreement that require prior notification, unless the Parties agree otherwise.

**OTF** means a multilateral system which is not a regulated market or an MTF and in which multiple third-party buying and selling interests in bonds, structured finance products, emission allowances or derivatives are able to interact in the system in a way that results in a contract in accordance with MiFID II.

**Portfolio** means the Client's portfolio of cash, Financial Instruments and any other permitted investments managed by the Portfolio Manager pursuant to this Agreement, together with all investments and re-investments made and the proceeds of those moneys and investments and all earnings and profits, less all withdrawals. For the avoidance of any doubt, any cash, Financial Instruments and other assets acquired by the Portfolio Manager for the account of the Client in accordance with the provisions hereof shall form part of the Portfolio.

**Portfolio Management** means managing portfolios in accordance with mandates given by Clients on a discretionary client-by-client basis where such portfolios include one or more financial instruments.

**Professional Client** means a client that fulfils the criteria provided in Appendix 8 (Client Categorization Policy).

**Qualifying Money Market Fund** means a collective investment undertaking authorised under the Open-Ended Undertakings for Collective Investment in Transferable Securities (UCITS) and Related Issues law, or which is subject to supervision and, if applicable, authorised by an authority under the national law of a Member State, and which satisfies the following conditions:

(a) its primary investment objective must be to maintain the net asset value of the undertaking either constant at par (net of earnings), or at the value of the investors' initial capital plus earnings;

(b) it must, with a view to achieving that primary investment objective, invest exclusively in high quality money market instruments with a maturity or residual maturity of no more than 397 days, or regular yield adjustments consistent with such a maturity, and with a weighted average

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maturity of 60 days. It may also achieve this objective by investing on an ancillary basis in deposits with credit institutions;

(c) it must provide liquidity through same day or next day settlement.

**Regulator** means the Cyprus Securities and Exchange Commission.

**Retail Client** means a client, which is not a Professional Client or an Eligible Counterparty.

**Client Questionnaire** means a Suitability Test and such other questionnaires that Portfolio Manager must obtain from the Client for regulatory compliance.

**Services** means the services provided by the Investment Manager to the Client under in this Agreement, as detailed in clause 5.

**Sub-Custodian** means a person appointed by the Investment Manager in its capacity as custodian to hold Financial Instruments on its behalf, which may be an Associate or branch of the Investment Manager.

**Suitability** (Suitability Test) means the mandatory regulatory assessment the Portfolio Manager must perform on any potential Client before providing the Services. This assessment is designed for the Portfolio Manager to select suitable investment strategies, contents of the Client's portfolio and generally to tailor the Services for the Client.

**Title Transfer Collateral Arrangements ("TTCA")** means an arrangement, including repurchase agreements, under which a collateral provider (also can be referred as Client) transfers full ownership of or full entitlement to, financial collateral to a collateral taker (also can be referred as Company) for the purpose of securing or otherwise covering the performance of relevant financial obligations. TTCA may apply to non-Retail Clients only. Appendix 4 hereto.

1.3 In this Agreement, unless the context otherwise requires or unless otherwise expressly provided, references to:

(a) persons include references to natural persons, firms, partnerships, companies, corporations, associations, organisations, and trusts, in each case whether or not having a separate legal personality;

(b) documents, instruments and agreements, including, without limitation, this Agreement and any other document referred to in this Agreement, are references to such documents, instruments and agreements as modified, supplemented, restated or novated from time to time;

(c) an authorisation includes references to an authorisation, consent, approval, resolution, license, exemption, filing and/or registration;

(d) a party to this Agreement includes references to its successors, transferees and assignees;

(e) clauses, Schedules and Appendixes are references to clauses of, schedules of, and appendixes to, this Agreement, and references to this Agreement include its appendixes;

(f) items, unless otherwise expressly provided, are references to items of the Schedule in which the references appear;

(g) headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement;



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(h) statutory provisions are construed as references to those provisions as respectively amended, consolidated, extended or re-enacted from time to time, and to any orders, regulations, instruments or other subordinate legislation made under the relevant statute;

(i) “a company” includes references to any company, corporation or other body corporate, wherever and however incorporated or established;

(j) “a regulation” includes references to any regulation, rule, official directive, request or guideline, whether or not having the force of law, of any governmental body, agency, department or regulatory, self-regulatory or other authority or organisation, and which is valid and enforceable in Cyprus; and

(k) the word “include”, “includes” or “including” shall be deemed to be followed by the words “without limitation”.

## 2. Regulation and Client status

2.1 The Investment Manager will categorize the Client as a Retail Client or Professional Client or Eligible Counterparty, according to the Law and the information provided by the Client (Appendix 8) for the purposes of the Law. The Client agrees to such classification for the purposes of the Law.

2.2 The Client acknowledges that the Investment Manager will rely on the accuracy, completeness and correctness of the information provided by the Client in Schedule 1, and the Client has the responsibility to notify the Investment Manager if such information changes, in which case the Investment Manager shall review the information, provided and reclassify the Client accordingly.

2.3 The Agreement constitutes a written agreement for the purposes of the Law.

## 3. Conditions precedent of the Agreement and the Effective date of Agreement

3.1 The Parties hereby set the following procedure for the conclusion of the Agreement:

3.1.1 the Client completes the Client Questionnaire and provides for the Investment Manager’s consideration the set of documents in accordance with Schedule 1;

3.1.2 the Investment Manager sends a notice to the Client that it has been accepted as a Client and notifies the Client of its Client Categorization;

3.1.3 the Parties sign the Agreement in two duplicate originals, each Party has received one duplicate original.

3.2 The Agreement shall take effect on the Effective date (as this term defined in clause 1 “Definitions and Constructions” here above) subject to prior receipt by the Investment Manager of the hardcopy of the Agreement duly signed by the Client.

## 4. Initial composition and value of Portfolio/Transfer

4.1 The Investment Manager undertakes to carry out management of the Initial Assets until the termination hereof in the best interests of the Client. The composition of the Initial Assets transferred to the Investment Manager shall be specified in Schedule 1.

4.2 The initial value of the Portfolio is stated in the Client Questionnaire or will be supplied to the Client by the Investment Manager as soon as reasonably practicable.



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4.3 The Client undertakes to review the details of the composition and value of the Initial Assets supplied by the Investment Manager and notify the Investment Manager as soon as practicable if there are any inaccuracies.

4.4 The Portfolio shall be transferred by the Client to the Investment Manager in the following manner:

4.4.1 transferable securities, money-market instruments or units in collective investment undertakings shall be transferred by the Client to the account of the Investment Manager or its agent with the depositary/registrar, as shall be designated for such transfer by the Investment Manager;

4.4.2 the money shall be transferred by the Client to the Investment Manager's clients' bank account opened for the purposes of the Agreement;

4.4.3 Financial Instruments other than those specified in Subsection 4.4.1. or that are incapable of being transferred in accordance with Subsection 4.4.1. shall be transferred in such manner that may be expressly agreed upon in writing between the Investment Manager and the Client.

4.5 The date when the Financial Instruments and/or the money are deemed transferred by the Client to the Investment Manager shall be determined in the following manner:

4.5.1 (for any transferable securities, money-market instruments or units in collective investment undertakings transferable in accordance with Subsection 4.4.1) the date when the Investment Manager receives a notice respectively from the corresponding depositary/registrar or its agent of the fact that such Financial Instruments have been credited to the account determined in accordance with Subsection 4.4.1;

4.5.2 (for money transferable in accordance with Subsection 4.4.2) the date when the Investment Manager receives a notice from the corresponding bank of the fact that such money has been credited to the Investment Manager's account determined in accordance with Subsection 4.4.2;

4.5.3 (for Financial Instruments transferable in accordance with Subsection 4.4.3) the date when the Investment Manager confirms the transfer of such Financial Instruments in writing by means of the Periodic Statement as defined in clause 10 below (where such Periodic Statement is for the purpose of confirmation of the Client's deposit and shall be serviced to the Client the next business day) to the Client in such form as shall be agreed upon in accordance with Subsection 4.4.3.

## **CLIENT SERVICES**

### **5. Extent of discretion, investment objectives and restrictions**

5.1 The Investment Manager shall provide to the Client the following investment and ancillary services under the Agreement, subject to the terms and conditions contained herein:

5.1.1 the investment service of Portfolio Management;

5.1.2 the ancillary services of safekeeping and administration of Financial Instruments for the account of the Client, including custodianship and related services such as cash/collateral management.





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5.2 In undertaking the Services, the Investment Manager:

5.2.1 shall have regard to:

- (a) the information on the Client provided in Schedule 1;
- (b) the investment objectives of the Client specified in Schedule 1;
- (c) the level of risk to be reflected in the Investment Manager's exercise of discretion specified in Schedule 1; and
- (d) any constraints on the exercise of the Investment Manager's discretion specified in Schedule 1; and

5.2.2 **shall comply with any investment restrictions specified in the Client Questionnaire and Investment Declaration.**

5.3 The Financial Instruments which may be included in the Client's Portfolio and the types of transactions which may be carried out in relation to such assets are specified in the Client Questionnaire and Schedule 2.

With this Agreement, **the Client delegates full discretionary authority to the Portfolio Manager to manage the Portfolio as agent for the Client**, and hereby **appoints the Portfolio Manager as its agent and attorney, with absolute and unfettered power and discretionary authority and without further approval of the Client** (except as expressly provided herein or as may be required by the Law) **to take all reasonable and necessary actions in connection with its powers, obligations and rights as set forth herein.**

To this effect, the Client will sign simultaneously with the signature of the present Agreement a **Power of Attorney to enable the Portfolio Manager to manage the Portfolio as agent of the Client** pursuant to the terms of the present Agreement and to pay, on behalf of the Client, any amount required in relation to the management and execution of transactions on behalf of the Client pursuant to the terms hereof.

Pursuant to the above, **the Portfolio Manager shall have absolute and unfettered discretion and authority to manage the investment and trading of the Portfolio within the parameters set by this Agreement without obtaining the Client's prior approval.**

The Client further hereby **authorises the Portfolio Manager to do in its sole, entire and absolute discretion** all such acts, deeds, matters and things on behalf of the Client, as the Portfolio Manager may deem, in its absolute discretion, incidental or consequential **to the discharge of its powers and responsibilities under this Portfolio Management Agreement** and the Law, as well as any Regulations, Rules and any other applicable law in force.

Provided that, the authority and powers delegated to the Portfolio Manager herein are continuing authority and powers and shall remain in full force and effect until the termination of the Service, in accordance with Clause 29 herein below.

5.4 Subject as provided in clause 5.2 and clause 5.3 and specified in Schedule 1, the Portfolio Manager may, in its absolute discretion and without prior reference to the Client:

- (1) make all investment decisions in respect of the Portfolio;
- (2) take all routine or day to day decisions in respect of the Portfolio;



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- (3) place orders and/or issue instructions for the execution of Portfolio transactions on any Market with or through such brokers, dealers, agents, market makers, issuers or other persons as the Portfolio Manager may, in its absolute discretion select, including, without limitation the Portfolio Manager or any associate or affiliate or subsidiary of the Portfolio Manager, subject to the terms of business agreed with The Portfolio Manager or implied by market practice;
- (4) subscribe for, purchase (or otherwise acquire), sell (or otherwise dispose of), convert Financial Instruments, invest in cash, Financial Instruments and other property on behalf of and for the account of the Client in respect of the Portfolio or otherwise effect transactions in Portfolio assets and effect foreign exchange transactions for the account of the Client. In connection with any such purchase, other acquisition, sale or other disposal or conversion for the protection of the value of Financial Instruments, the Client acknowledges that a movement in exchange rates may have a separate effect favourable as well as unfavourable on the gain or loss otherwise experienced on the Financial Instrument;
- (5) issue instructions in connection with (i) the receipt, delivery or retention of Portfolio assets (including, without limitation, cash) and (ii) in the exercise of all powers and discretions conferred on the owner of such assets;
- (6) enter into, make, sign and perform all contracts, agreements, undertakings and any other documentation as may in the opinion of the Portfolio Manager be necessary or advisable or incidental to any of the provisions of this Portfolio Management Agreement;
- (7) surrender Financial Instruments of the Portfolio at maturity or when called for redemption against payment thereof;
- (8) receive and collect all income and principal with respect to the Portfolio and to credit cash receipts to the account;
- (9) exercise on behalf of the Client all rights conferred by Financial Instruments acquired for him;
- (10) engage the services of any entity to act as custodian and nominee of all or part of the non-cash investments held in the Portfolio. Such an entity includes, without limitation, any associate, affiliate or subsidiary of The Portfolio Manager, and the engagement may be according to such entity's standard terms of business in effect from time to time.

5.5 Subject to as provided in clauses 5.2, 5.3 and 5.4 and specified in the Client Questionnaire, Investment Declaration and this Agreement, there are no restrictions on:

5.5.1 the type(s) of Financial Instruments, investment(s) or asset(s) which may be acquired for the Portfolio;

5.5.2 the type(s) of transactions which may be carried out in respect of any security or Financial Instruments, investment(s) or asset(s);

5.5.3 the amount of any one or type of investment or asset which may be acquired for the Portfolio;

5.5.4 the proportion of the Portfolio which any one or type of investment or asset may constitute; or

5.5.5 the markets or exchanges on or through which transactions may be effected or executed.

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5.6 If restrictions on investment of the Portfolio are specified in the Client Questionnaire and Schedule 2, such restrictions shall be deemed not to be breached by subsequent variations in the value or price of any investment(s) or other asset(s) comprised in the Portfolio.

5.7 The Client hereby appoints the Investment Manager as manager of the Client's Portfolio and the Investment Manager accepts its appointment upon the terms of the Agreement. The Investment Manager shall have the power and authority to substitute or appoint any other attorney(s) under it.

5.8 The Client hereby entrusts the Investment Manager with the administration and management of the Portfolio, which for the purpose of this Agreement means the Investment Manager's authority to conclude any transactions and perform operations with the Portfolio on a discretionary basis without preliminary consultations or approvals each time with the Client.

5.9 The Investment Manager agrees to provide the Discretionary Portfolio Manager services which shall include investment management, the responsibility of managing, renewing and reshuffling the account, buying and selling the Financial Instruments, keeping safe custody of the Financial Instruments and monitoring other corporate actions so as to ensure that all benefits accrue to the Client's Account as also to take day to day decisions in respect of the Account and the Assets in accordance with this Agreement.

5.10 When an Investment Service is offered together with another service or product as part of a package or as a condition for the same agreement or package, the Investment Manager shall inform the Client whether it is possible to buy the different components separately and shall provide for separate evidence of the costs and charges of each component.

## 6. Advice

The Services provided by the Investment Manager do not include the provision of Investment Advice. The Client is solely responsible for any investment strategy, transaction or investment in relation to any assets and/or Financial Instruments that do not form part of the Portfolio under management, pursuant to this Agreement.

## 7. Client money

7.1 The Investment Manager shall hold money on the Client's behalf as client money in accordance with the provisions of the Law and of the CySEC Directive DI87-01 R.A.D. 2/2018 with regards to safeguarding of financial instruments and funds belonging to Clients.

7.2 Client's money will be deposited in reputable authorised banks both in the European Union and third countries. The Investment Manager will exercise due skill and care in the selection of the banks where the Client's money will be deposited. The Investment Manager will also perform periodic reviews of the banks and of their arrangements for the safekeeping of the Client's money and make decisions whether it will continue to keep the Client's money in the same banks or not.

7.3 The Investment Manager must deposit the Client's money into one or more accounts opened with any of the following:

7.3.1 a central bank;

7.3.2 an authorised European credit institution;

7.3.3 a bank authorised in a third country;

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7.3.4 a Qualifying Money Market Fund;

7.3.5 another licensed reputable financial organisation (for example, an exchange, executing broker, intermediate broker, over-the-counter organisation or clearing house) based within or outside the EEA where it is absolutely required for the execution of our obligations and/or execution of transactions under the Agreement.

7.4 The Client has the right to oppose the placement of its money in a Qualifying Money Market Fund.

## 8. Custody services

8.1 The Investment Manager will provide the Client with a safe custody service in relation to any assets held by the Investment Manager in accordance with the Law. The following provisions will apply to the holding of such assets.

8.2 In making its assessment, the Investment Manager will exercise due skill, care and diligence in the selection, appointment and periodic review of the third party and of the arrangements for the holding and safekeeping of the Financial Instruments, and take into account the expertise and market reputation of the third party that will keep the Client's Financial Instruments as well as any legal requirements or market practices related to the holding of the Financial Instruments that could adversely affect the Client's rights. The Investment Manager will also perform periodic reviews to assess the third parties as well as the arrangements made for the safekeeping of the Financial Instruments

8.3 All registrable securities, investments and other assets will be registered in the name of the Investment Manager, or its nominee or the name of a Custodian appointed by the Investment Manager unless otherwise required by the Client and agreed in writing by the Investment Manager.

8.4 Documents of title to bearer securities and assets, if any, will be kept separately from any documents of title to bearer securities and assets belonging to the Investment Manager in the Investment Manager's own physical possession. Bearer or other non-registered securities and assets may not always be held by the Investment Manager directly or in its physical possession but may be held by one or more third parties (including clearing systems, Sub-Custodians and overseas agents) directly or indirectly, and may be for its or their account.

8.5 Financial Instruments which are subject to the law or market practice of a jurisdiction outside Cyprus may be registered or recorded in the name of any other third party or of the Investment Manager where the Investment Manager has taken reasonable steps to determine that it is in the Client's best interests to register or record in that way, or that it is not feasible to do otherwise because of the nature of the applicable law or market practice. As a consequence of this, the Client's securities will not be segregated from securities belonging to the Investment Manager and therefore the Client's protection may be less should a default occur on the part of the person in whose name the investments are registered or recorded. Securities belonging to the Client which are held overseas may be subject to different settlement, legal and regulatory requirements from those which apply within Cyprus.

8.6 Financial Instruments purchased through or held by the Investment Manager may only be registered in the name of or held by some other person nominated by the Client with the Investment Manager's prior written consent. Where the Investment Manager consents to such



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an arrangement the consequences of such registration or holding carried out in accordance with the Client's instructions are entirely the Client's risk.

8.7 The Investment Manager is responsible for the acts of its nominees to the same extent as for its own acts. The Investment Manager accepts no liability for the default of any other nominees, Custodians or third parties, provided that the Investment Manager has complied with the provisions of the Law, in relation to the selection, appointment of and /or outsourcing to, nominees, Custodians or third parties.

8.8 Financial Instruments registered or recorded in the name of a nominee may be pooled with those of one or more of the Investment Manager's other clients. Accordingly, the Client's individual entitlements may not be immediately identifiable by separate certificates, physical documents or entries on the register or equivalent electronic records. If there is an irreconcilable shortfall following any default or failure by the Custodian responsible for pooled assets, the Client may not immediately receive the Client's full entitlement and may share in that shortfall pro rata to the Client's original share of the assets in the pool. When corporate events (such as partial redemptions) affect some but not all of the assets held in a pooled account, the Investment Manager will allocate the assets so affected to particular clients in such fair and equitable manner as the Investment Manager considers appropriate (which may without limitation involve pro rata allocation).

8.9 The Investment Manager may, at its discretion, and without being obliged to give any prior notification to the Client, use one or more Sub-Custodians to hold the Financial Instruments comprised in the Portfolio and may delegate the provision of any custody service to any such Sub-Custodian. A Sub-Custodian may be another company in the group of companies to which the Investment Manager itself belongs.

8.10 The appointment of a Sub-Custodian shall be on such terms as the Investment Manager may determine including, without limitation, terms that are customary or appropriate for the investment or market concerned or for the deposit of investments in a depository system.

8.11 If a Sub-Custodian fails to account to the Investment Manager for any Financial Instruments for any reason or otherwise fails to deliver up any Financial Instruments or the proceeds of sale thereof, or otherwise to perform its obligations, the Investment Manager shall, in the absence of its own fraud, wilful default or negligence, have no liability arising out of the actions, omissions or default of any Sub-Custodian.

8.12 The Investment Manager will collect any dividends, interest, payments or other entitlements to which the Client may be entitled in respect of Financial Instruments and of which the Investment Manager is notified and will remit to the Client such dividends or interest as soon as practically possible after deduction of any taxes and duties payable or credit them to the Client's account. It is expressly noted that the Investment Manager shall never be a tax agent or be acting in a similar to tax agent capacity, it shall never be liable to the Client for deduction, notification of deduction, omission to deduct of any taxes or duties that the relevant third party must or may deduct from the Client under the applicable laws. The Client is fully liable for ensuring its tax compliance and for its awareness about any applicable deductions, if any.

8.13 Voting and other voluntary rights and entitlements pertaining to the Financial Instruments comprised in the Portfolio will be dealt with by the Investment Manager in accordance with its powers and authorities under this Agreement.



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8.14 Where the Client has a right to the return of any Financial Instruments, the Investment Manager shall not be obliged to return the original securities or other assets delivered to the Investment Manager but merely obliged to deliver securities or other assets of the same type and nominal value and, in the case of securities, of the same issuer.

8.15 The Investment Manager will take all the necessary steps to ensure that the Client's Financial Instruments and money are safeguarded. Specifically, the Investment Manager will:

8.15.1 Maintain separate accounts and records to ensure that the Client's assets are accurately and easily distinguished, from assets held on behalf of other clients, and from the Investment Manager's assets;

8.15.2 Maintain separate bank and custodian accounts for the Client's assets than those maintained for the Investment Manager's own assets;

8.15.3 Maintain appropriate records and accounts in order to ensure their accuracy as regard the Financial Instruments and money held on behalf of clients;

8.15.4 Ensure that controls are in place to reduce the risk of the Client's assets being misused or lost as a result of inadequate record-keeping or negligence;

8.15.5 Conduct on a regular basis reconciliation between its internal accounts and those of any third parties by whom Client's assets are held.

8.16 The Investment Manager is obligated to inform its Retail Clients about its intention to maintain their Financial Instruments with a Custodian. Particularly the Investment Manager is responsible for informing clients in a Durable Medium of:

8.16.1 The Investment Manager's responsibilities with regards to omission or insolvency of the Custodian;

8.16.2 The Investment Manager's intention to maintain the Client's Financial Instruments in an omnibus account;

8.16.3 The jurisdiction of the Custodian, if other than a member state, and the rights of the Client;

8.16.4 The Investment Manager's obligations and responsibilities in case it will be using Client's Financial Instruments.

8.17 The Investment Manager can only deposit the Client's Financial Instruments with a third party in a third country that does not regulate the holding and safekeeping of Financial Instruments for the account of another person:

8.17.1 when the nature of the Financial Instruments and/or connected investment service requires their deposit with a third party in that third country;

8.17.2 where the Financial Instruments are held for a Professional Client who requests in writing that they be deposited with a third party in that third country.

8.18. Notwithstanding anything stated above, the Investment Manager shall not be liable if any instruments relating to any of the assets are damaged, torn, destroyed, lost, misplaced or otherwise become unavailable or if any assets are lost, stolen, destroyed or pilfered in any manner unless by gross negligence or a wilful act by the Investment Manager.



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## 9. Voting

9.1 Subject to as specified in Schedule 1, the Client's specific instructions and the Investment Manager's Conflicts of Interest Policy (Appendix 7), the Investment Manager may decide either:

9.1.1 at its discretion to procure the exercise of any voting rights attaching to the Financial Instruments comprised in the Portfolio; or

9.1.2 not to procure the exercise of any voting rights attaching to the Financial Instruments comprised in the Portfolio, except with the agreement or on the specific instructions of the Client.

## 10. Confirmations, valuations and reports

10.1 The Investment Manager shall provide the Client with a periodic statement (unless such statement is provided by another person) in a Durable Medium (the "**Periodic Statement**"). The Periodic Statement shall be provided to the Client or to the Authorised Person, at the intervals of **every 1 (One) month** (the "**Period**"), unless otherwise agreed in writing but always within the intervals permitted by the Law and the Delegated Regulation.

10.2 The Periodic Statement shall contain a fair and balanced review of the activities of the Investment Manager undertaken under the Agreement and shall include, where relevant, the following:

(a) the name of the Investment Manager;

(b) the name or other designation of the Client's account;

(c) a statement of the contents and the valuation of the Portfolio, including details of each Financial Instrument held, its market value, or fair value if market value is unavailable and the cash balance at the beginning and at the end of the reporting Period, and the performance of the portfolio during the reporting Period;

(d) the total amount of fees and charges incurred during the reporting Period, itemising at least total fees and total costs associated with execution, and including, where relevant, a statement that a more detailed breakdown will be provided on request;

(e) a comparison of performance during the Period covered by the statement with the investment performance benchmark (if any) agreed between the Parties. It is agreed that unless agreed otherwise, there is no benchmark in the Agreement and its Appendices, but the Hurdle Rate which is defined in Appendix 2 hereto;

(f) the total amount of dividends, interest and other payments received during the reporting Period in relation to the Client's Portfolio;

(g) information about other corporate actions giving rights in relation to financial instruments held in the portfolio;

(h) for each transaction executed during the Period, the following information about executed transactions will be provided, where applicable and where relevant:

- the trading day;
- the trading time;
- the type of the order;
- the venue identification;
- the instrument identification;



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- the buy/sell indicator;
- the nature of the order if other than buy/sell;
- the quantity;
- the unit price;
- the total consideration;

10.3 The Periodic Statement shall also include the Statement of Assets of the Client, i.e., the statements of the Client's Financial Instruments and/or the Client's funds and shall include, where relevant and where applicable, the following:

- a) details of all the Financial Instruments or funds held by the Investment Manager for the Client at the end of the Period;
- (b) the extent to which the Client's Financial Instruments or Client funds have been the subject of securities financing transactions;
- (c) the extent of any benefit that has accrued to the Client by virtue of participation in any securities financing transactions, and the basis on which that benefit has accrued;
- (d) a clear indication of the assets or funds which are subject to the rules of MiFID II and its implementing measures and those that are not, such as those that are subject to Title Transfer Collateral Agreement;
- (e) a clear indication of which assets are affected by some peculiarities in their ownership status, for instance due to a security interest;
- (f) the market or estimated value, when the market value is not available, of the Financial Instruments included in the statement with a clear indication of the fact that the absence of a market price is likely to be indicative of a lack of liquidity. The evaluation of the estimated value shall be performed by the firm on a best effort basis;
- (g) where the Portfolio of the Client includes the proceeds of one or more unsettled transactions, the information referred to in point (a) above may be based either on the trade date or the settlement date, provided that the same basis is applied consistently to all such information in the statement.

10.4 In cases where the Investment Manager provides the Client with the access to an online system which qualifies as a Durable Medium, the Parties may modify the obligation of above reporting by means of an additional agreement and always compliant with the Law.

10.5 Where the Client wishes to amend the frequency of the Periodic Statement, Client should contact the Investment Manager in writing. Such amendment shall be subject to the regulatory requirements.

10.6 The basis on which the Financial Instruments comprising the Portfolio are to be valued for the purposes of this Agreement is specified in Appendix 1 (in the Valuation Policy). It is agreed by the Parties for the purpose of this Agreement and for the Valuation Policy no benchmark shall be used apart from the Hurdle Rate defined and stated in Appendix 2 (the Portfolio Management Agreement).

**10.7 The Client is entitled to make reasonable written objections to the periodic statements referred to above within 5 (five) business days from the date of their receipt. If the Client expresses no objections during this period, such periodic statements (and the transactions included therein) shall be deemed accepted and approved by the Client.**





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10.8 The Investment Manager is obliged to report to the Client (both Retail and Professional) on the overall value of the Client's Portfolio depreciation by a 10% threshold on a particular business day in accordance with the requirements of the Delegated Regulation (the "**Mandatory Depreciation Reporting**"):

10.8.1 this Mandatory Depreciation Reporting is applicable only where the depreciation threshold of 10% and thereafter at multiples of 10% is passed, less any cash withdrawals made by the Client within the reporting period;

10.8.2 it is acknowledged by the Client that the Investment Manager has expressly informed him/her that the Mandatory Depreciation Reporting should be on an instrument-by-instrument basis, unless otherwise agreed, hence, the Client has requested the Investment Manager and consents hereby that the 10% depreciation shall be reported to him/her on an aggregated basis:

- on the overall value of the Portfolio; or
- on the global value of all leveraged Financial Instruments, where applicable.

10.8.3 should the Client wish to recall previously given consent in Clause 10.8.2 above, this Client should contact the Investment Manager in writing.

10.9 The Client gives its express consent to the Investment Manager to permit the latter to do all applicable regulatory reporting which the Investment Manager must do in its own behalf. It is expressly stated that where the Client is required to do its own statutory reporting, he/she should do so with his/her own capacity. The Investment Manager does not accept any delegated reporting obligations. In cases where the disclosure/reporting is voluntary and is at the option of the Client, the Investment Manager is relieved from any duty or liability whatsoever concerning such optional Client's disclosure or reporting.

## **TERMS APPLICABLE TO DEALING**

### **11. Dealing, counterparties and execution policy**

11.1 The Investment Manager shall comply with all applicable obligations to act in the best interests of the Client and to seek Best Execution within the provisions of the Law in effecting transactions on behalf of the Client in respect of the Portfolio.

11.2 In connection with its obligations under clause 11.1, the Investment Manager has established a Order Execution Policy, details of which are attached as Appendix 11. The Client agrees and consents to the Investment Manager's Order Execution Policy. The Client further acknowledges and agrees that transactions on behalf of the Client in respect of the Portfolio may be effected outside a regulated market or an MTF.

11.3 Specific instructions from the Client in relation to the manner in which transactions on behalf of the Client in respect of the Portfolio should be given effect to, may prevent the Investment Manager from taking the steps that it has designed and implemented as part of the Order Execution Policy to obtain best execution in respect of the elements covered by the relevant instructions.

11.4 In effecting transactions on behalf of the Client in respect of the Portfolio, the Investment Manager may:

11.4.1 in its absolute discretion deal with the Client as principal or agent; and



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11.4.2 match an order on behalf of the Client with an order from or on behalf of another client acting as agent for both parties.

11.5 Subject to any restrictions specified in the Client Questionnaire and Investment Declaration and to compliance with the Investment Manager's Order Execution Policy, the Investment Manager may deal on such markets or exchanges and with such counterparties as it thinks fit. The Client agrees that all transactions on a relevant market or exchange will be effected in accordance with the rules and regulations of the relevant market or exchange. The Investment Manager may take all such steps as may be required or permitted by such rules and regulations and/or by good market practice which may include, where appropriate, the Investment Manager in its capacity as custodian or other agents parting with possession of documents of title representing investments or other assets of the Portfolio before receipt of the corresponding proceeds.

11.6 Subject to clause 11.7, the Investment Manager may aggregate transactions for the Portfolio with those of other clients of the Investment Manager and its Associates and their respective employees or members and shall allocate such transactions on a fair and reasonable basis in accordance with the Law and without giving unfair preference. The effect of aggregation and allocation may work to the advantage or disadvantage of the Client.

11.7 The Investment Manager shall not carry out a client order or a transaction for own account in aggregation with another client order unless the following conditions are met:

11.7.1 it must be unlikely that the aggregation of orders and transactions will work overall to the disadvantage of any client whose order is to be aggregated;

11.7.2 it must be disclosed to each client whose order is to be aggregated that the effect of aggregation may work to its disadvantage in relation to a particular order; and

11.7.3 an order allocation policy must be established and effectively implemented, providing in sufficiently precise terms for the fair allocation of aggregated orders and transactions, including how the volume and price of orders determines allocations and the treatment of partial executions.

### 12. Warrants

12.1 Where specified in the Client Questionnaire, the Investment Manager may recommend and/or effect on behalf of the Client transactions in warrants for the Portfolio. Warrants often involve a high degree of gearing so that a relatively small movement in the price of the security to which the warrant relates may result in a disproportionately large movement, unfavorable as well as favorable, in the price of the warrant.

12.2 The attention of the Client is specifically drawn to the warnings in connection with the risks of warrants in Appendix 5 – Risk Disclosure Statement.

### 13. Derivatives

13.1 Where specified in the Client Questionnaire and the Investment Manager may:

13.1.1 effect transactions in

- Options, futures, swaps, forward rate agreements and any other derivative contracts relating to securities, currencies, interest rates or yields, emission allowances or other



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derivatives instruments, financial indices or financial measures which may be settled physically or in cash;

- Options, futures, swaps, forwards and any other derivative contracts relating to commodities that must be settled in cash or may be settled in cash at the option of one of the parties other than by reason of default or other termination event;
- Options, futures, swaps, and any other derivative contract relating to commodities that can be physically settled provided that they are traded on a regulated market, a MTF, or an OTF, except for wholesale energy products traded on an OTF that must be physically settled;
- Options, futures, swaps, forwards and any other derivative contracts relating to commodities, that can be physically settled not otherwise mentioned above and not being for commercial purposes, which have the characteristics of other derivative financial instruments; and/or

13.1.2 effect other transactions in options relating to investments other than those described in clause 13.1.1, including contingent liability transactions, both on and off market and/or exchange.

13.2 The Investment Manager may settle or close out transactions referred to in clause 13.1 without reference to the Client and may debit the Portfolio with any sums required to pay or supplement any deposit or margin in support of any such transaction and deposit such security as may be required as collateral.

13.3 The attention of the Client is specifically drawn to the warnings in connection with the risks of derivatives in Appendix 5.

#### 14. Securities lending and borrowing

14.1 Where specified in the Client Questionnaire and/ or separately agreed in writing by the Investment Manager and the Client (for Clients categorized as 'Professional Clients' the TTCA may be in place), the Investment Manager may enter into arrangements on behalf of the Client to lend to a third party investments and other assets or documents of title or certificates evidencing title to investments and other assets comprised in the Portfolio. The type of investments and other assets which may be lent, the type and value of the relevant collateral required to be received from the borrower and the method and amount of payment due to the Client are specified in Schedule 2. The Investment Manager confirms that the use of that Client's Financial Instruments will be restricted to the specified terms to which the Client has consented in Schedule 2.

14.2 Any income or fees received and charges and expenses incurred in relation to the transactions referred to in clause 14.1 will be for the account of the Portfolio.

14.3 Where, and in the circumstances permitted in the Client Questionnaire and/or Schedule 2, the Investment Manager may at its discretion commit the Client to potentially or actually supplement the assets of the Portfolio by:

14.3.1 borrowing on the Client's behalf both on an unsecured basis and against the security of investments comprised in the Portfolio or other property; and/or

14.3.2 committing the Client to a contract which may require the Client to supplement such assets.



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Any limits imposed on the Investment Manager in relation to such transactions and the circumstances in which such limits may be exceeded are specified in the Client Questionnaire and/or Schedule 2. The Investment Manager may in connection with such transactions, deposit investments comprised in the Portfolio with a third party by way of collateral.

14.4 The Investment Manager will not enter into arrangements for securities financing transactions in respect of Financial Instruments which are held on behalf of the Client in an omnibus account maintained by a third party, or otherwise use Financial Instruments held in such an account for its own account or for the account of another client, unless (in addition to the receipt of the Client's consent for the use of such Financial Instruments for the specified terms as provided in clause 14.1), at least one of the following conditions is met:

14.4.1 each client whose Financial Instruments are held together in an omnibus account must have given prior express consent in accordance with clause 14.1;

14.4.2 the Investment Manager has in place systems and controls which ensure that only Financial Instruments belonging to clients who have given prior express consent in accordance with clause 14.1 are so used.

14.4.3 the records of the Investment Manager include details of the client on whose instructions the use of the Financial Instruments has been effected, as well as the number of Financial Instruments used belonging to each client who has given his consent in accordance with clause 14.1, so as to enable the correct allocation of any loss.

14.5 The attention of the Client is specifically drawn to the warnings in connection with the risks of Securities Lending and Borrowing Risks in Appendix 5.

#### 15. Closed-ended funds, Collective Investment Schemes and retail investment products

15.1 Where specified in the Client Questionnaire and/or Schedule 2, the Investment Manager may recommend and/or effect transactions on behalf of the Client in:

15.1.1 investment trusts;

15.1.2 closed-ended investment funds other than investment trusts;

15.1.3 unregulated investment schemes; and/or

15.1.4 other retail investment products.

## RISKS, MATERIAL INTERESTS AND DISCLOSURES

### 16. Risks associated with investment management of Portfolio

16.1 The Client acknowledges and unreservedly accepts the following:

- i. **Past performance can never guarantee future results.**
- ii. The Client has understood and agreed that all Financial Instruments are subject to risk, that the value of any Financial Instrument and the income arising from it may decrease as well as increase and that the degree of risk appertaining to any Financial Instrument is a matter of judgement which cannot be accurately determined. As a result of the purchase or sale of any Financial Instrument there exists substantial risk of incurring losses, and where leverage is used, losses may be greater than the invested capital, and the Client is willing to take such



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- risk.
- iii. When investing in Financial Instruments whose currency is other than the Clients' base currency, any exchange rate fluctuations may negatively affect the value of the investment.
  - iv. A depository may have a security interest or lien over, or right of set-off in relation to Financial Instruments or funds belonging to the Client.
  - v. Financial Instruments might be based on unrated securities, which bear significant credit and exchange rate risk. While The Portfolio Manager may attempt to put in place actual or synthetic hedging arrangements to address such risks, there can be no assurances that such hedging arrangements shall be available or that the hedging will be effective.
  - vi. Notwithstanding that the Portfolio Manager will at all times act in good faith to carry out its obligations under the Portfolio Management Agreement, some of the Financial Instruments contemplated herein may be volatile and illiquid, and that there is no guarantee of a return in relation to the such Financial Instruments, or of immediate disposition of the Financial Instruments held in the Portfolio without resulting in material loss.
  - vii. Fixed income investment values are generally affected by changes in interest rates. There is a possibility that an increase in interest rates or a downgrade in the credit rating of an investment may negatively affect the value of a portfolio exposed to fixed income investments.
  - viii. There are significant risks in using derivative instruments. In general terms, a derivative instrument is one whose value depends on (or is derived from) the value of an underlying asset, interest rate or index. Options, futures, options on futures and interest rate swaps or other interest rate-related transactions are examples of derivatives. Derivative instruments involve risks different from those involved in direct investments in non-complex Financial Instruments. These risks include imperfect correlation between the value of the Financial Instrument and the underlying assets; risks of default by the other party to certain transactions; risks that the transactions may result in losses that partially or completely offset gains in portfolio positions; risks that the transactions may not be liquid; and management risk.
  - ix. Fixed income instruments are subject to credit risk. Credit risk is the possibility that an issuer will fail to make timely payments of interest or principal. Some issuers may not make payments due on debt instruments, causing a loss. Further, an issuer may suffer adverse changes in its financial condition that could lower the credit quality of a Financial Instrument, leading to greater volatility in its price. A change in the quality rating of a bond or other Financial Instrument can also affect the Financial Instrument's liquidity.
  - x. Fixed income instruments are subject to prepayment risk. The issuers of fixed income instruments held in the Portfolio may not be willing or able to prepay principal on the relevant Financial Instruments, particularly during periods of increasing interest rates. On the other hand, rising interest rates may cause prepayments to occur at slower than expected rates.
  - xi. The Portfolio Manager may engage in frequent and active trading of securities in the Portfolio to achieve the Client's investment objectives. If the Portfolio Manager trades in this manner, the Portfolio may incur increased transaction costs, which can lower the actual return on investment. Active trading may also increase short-term capital gains and losses, which may affect any taxes the Client has to pay, depending on the Client's tax jurisdiction.
  - xii. Subject to any expressly stated limitations, the Portfolio Manager may (at its discretion) use complex Financial Instruments to increase returns or reduce risk on the Portfolio.
  - xiii. The Portfolio Manager (including its employees, associates, agents, affiliates or subsidiaries) is not giving any guarantee or warranty in relation to the return or profitability of any

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Financial Instrument comprising part of or the Portfolio. Without prejudice to the generality of the foregoing, the Portfolio Manager, including its employees, associates, agents, affiliates or subsidiaries, shall have no liability whatsoever in the event the value of any Financial Instrument of the Portfolio decreases and The Portfolio Manager shall not be liable to the Client for any act or omission in connection with the performance of The Portfolio Manager's services hereunder, other than as a result of its own and its employees wilful misconduct or fraud.

16.2 The attention of the Client is further drawn to Appendix 5 which provides details of the types of transactions which the Investment Manager may enter into and/or effect on behalf of the Client, and the risks associated with such transactions. The Client declares that he has read and that he has understood and thus accepts without any reservation the risks referred to in Appendix 5.

### 17. Potential conflicts of interest and disclosures

17.1 The Investment Manager maintains organisational and administrative arrangements with a view to taking all reasonable steps to prevent a conflict of interest constituting or giving rise to a material risk of damage to the interests of the Client. Actual or potential conflicts of interest, if any, which the Investment Manager is not able to manage in this manner are disclosed in Appendix 7.

17.2 The Investment Manager's Conflicts of Interest Policy is set out in Appendix 7. The Conflicts of Interest Policy sets out the types of actual or potential conflicts of interest which affect or may affect the Services and provides details of how these are sought to be managed.

## COMMISSIONS, FEES AND CHARGES

### 18. Dealing commission

18.1 Where and to the extent permitted under the Law, the Investment Manager may enter into arrangements relating to the execution of transactions on behalf of the Client whereby it receives money, goods or services related to the execution of trades or the provision of research.

18.2 The Investment Manager's policy in relation to the arrangements referred to in clause 18.1, where relevant, is set out in Appendix 6.

18.3 In circumstances where the Investment Manager enters into the arrangements referred to in clause 18.1 it shall provide the Client with adequate disclosure as required under the Law.

### 19. Fees and charges

19.1 The (a) fees and charges payable by the Client to the Investment Manager for the Services and (b) the costs and expenses incurred by the Investment Manager in connection with the Services which the Client is obliged to reimburse the Investment Manager for, including the basis of their calculation, the profit sharing model, the fee structure, how frequently they are payable, the currency or currencies in which they are payable, and how they are to be paid and collected, are specified in the relevant Appendix hereto (the Appendix called "Portfolio Management Fees" and Appendix "Execution Fee Schedule" as from time to time may apply). Please, read the appendices very carefully.





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19.2 The Investment Manager may vary its fees and charges from time to time, provided that the Investment Manager notifies the Client of any changes in accordance with Clause 27 below, before they come into effect. The variation will take effect from the date which the Investment Manager specifies in its notification to the Client. The Investment Manager will endeavor to provide the Client with 10 (Ten) calendar days' notice of such alteration save where such alteration is based on a change in interest rates or tax treatment or it is otherwise impractical for the Investment Manager to do so.

19.3 Where any variation results in an increase in the fees and charges of the Investment Manager, the Client has the right to request the termination of the Agreement by giving notice of 10 (Ten) calendar days to the Investment Manager, as provided in Clause 29 below, in which case the provisions of clause 30 (the Effect of Termination) shall be applicable. For avoidance of any doubt, the 10 days' notice in clauses 19.2 and 19.3 is the same notice for the purpose: on 10 days either the amended fees will apply or the Client terminates the Agreement.

19.4 The Client shall be responsible for the payment of any commissions, transfer fees, registration fees, taxes, stamp duties, duties and other fiscal liabilities and all other liabilities, costs and other expenses properly payable or properly incurred by the Investment Manager on behalf of the Client under this Agreement.

19.5. The Portfolio Management Fee shall be charged in two cases: at the end of the current financial year where the Portfolio Management was provided to the Client and in case the Client initiates a withdrawal. The Portfolio Manager reserves the right and the Client irrevocably agrees with this right of the Portfolio Manager to charge the Portfolio Management Fee, which has been respectively accrued during the applicable period, every time the Client makes a withdrawal, irrespective of the period for which such Fee is charged. In such case, the Portfolio Management Fee shall be calculated on pro rata basis.

19.6. Where the Portfolio Management Fee is charged at the end of the financial year in which the Portfolio Management services were provided, the Portfolio Manager reserve the right to withhold the said Fees during the period of 30 (Thirty) calendar days following the end of such current financial year.

19.7. The Parties agree that for the purpose of calculating of the Portfolio Management Fees the Hurdle Rate and the High Watermark shall apply, both are detailed and exemplified in the Portfolio Management Fees Appendix hereto.

## 20. Lien and Realisation of Client's assets

20.1 Any sums due to the Investment Manager or to any other person in respect of commissions, fees, expenses or otherwise pursuant to this Agreement (plus any applicable VAT) may be withdrawn from the Portfolio (and in this respect, the Client authorises the Investment Manager to withdraw money from the Portfolio, as required), and the Investment Manager is given authority in its capacity as custodian to make payment of all invoices and other requests for payment in respect of those sums.

20.2 Without prejudice to any other rights and remedies which the Investment Manager may have at law, the Investment Manager shall have a lien, right of retention and power of sale over any and all money, investments, documents of title, certificates and other assets, including, but not limited to, the Financial Instruments of the Client held by the Investment Manager for the Client, to the extent of, and to satisfy, any outstanding liability which the Client may have now or



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at any time towards the Investment Manager. In this respect, the Investment Manager is authorised to realise, on behalf of the Client, investments and other assets comprised in the Portfolio in order to meet any obligation of the kind referred to in clause 20.1 provided that it shall have given the Client not less than 3 (three) Business Days' prior notice verbally or in writing.

## LIABILITY, INDEMNITY AND CLIENT WARRANTIES

### 21. Liability and indemnity

21.1 **The Investment Manager gives no warranty as to the performance or profitability of the Portfolio or any part of it or that the investment objectives of the Client** stated in the Investment Declaration will be achieved. The Investment Manager **cannot guarantee that investments and other assets acquired for the Portfolio will not depreciate in value or that they will not be affected by adverse tax consequences.** The Client and any professional tax adviser of the Client remain responsible for the management of the Client's affairs for tax purposes.

21.2 The Investment Manager shall conclude transactions in good faith and with due diligence but **shall not be liable for the omission, fraud or default of any counterparty**, bank, custodian, Sub-Custodian or other entity which holds money, investments or other documents of title on behalf of the Client or with or through whom transactions on behalf of the Client are conducted in respect of the Portfolio unless this would be the result of the Investment Manager's gross negligence, wilful default or fraud.

21.3 The Investment Manager **shall not be liable for any error of judgment or any loss suffered by the Client in connection with the Services** (and in particular, but without limitation, the Investment Manager shall not be liable for any loss which may be sustained in the purchase, holding or sale of any investments or other assets in connection with those services) unless such loss arises from the Investment Manager's gross negligence, wilful default or fraud.

21.4 The Investment Manager shall not be liable in any circumstances for any Losses that constitute indirect, special or consequential loss, or loss of profits, opportunity, goodwill or reputation in connection with or arising out of this Agreement.

21.5 The Client undertakes to indemnify the Investment Manager and its agents, delegates, officers, members and employees against all Losses pursuant to or in connection with this Agreement (including any Loss caused as a direct or indirect result of any of the warranties and representations on the part of the Client made under the Agreement being untrue or inaccurate, as a direct or indirect result of any breach, default or failure by the Client to perform and observe any of the terms and conditions of the Agreement), except to the extent such Losses result directly from the negligence, wilful default or fraud of the Investment Manager (or any agent, delegate, officer, member and employee) in providing the Services.

21.6 The Client confirms that he/she fully understands the risks involved with this Agreement and that he/she has been fully informed about such risk by the Investment Manager. The Client confirms that he/she is familiar with all the transactions to be undertaken pursuant to this Agreement.

21.7 The Investment Manager shall not be required to offer advice on any tax issue to the Client and the Investment Manager accepts no liability for any tax the Client may be required to pay on any profits made during the term of this Agreement.



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21.8 The Investment Manager shall not be liable for any loss incurred due to a change of law, regulation, interpretation of a specific provision of law, policy inconsistent application/ interpretation of any provision of the law by any relevant authority.

21.9 The Client shall indemnify and keep the Manager and or its directors and or its employees and or its representatives harmless and free from any claim by third parties and or for any loss and liability. Any costs or expenses which the Manager may incur in respect of any act or omission of the Manager in respect to the provision of the Services or as a result of any act or omission on behalf of the Client and or its Authorised Representatives or Attorneys shall be indemnified by the Client. This provision shall not apply in cases of gross negligence, wilful neglect or fraud on the part of the Manager or its employees.

## 22. Client warranties

22.1 The Client represents and warrants that:

22.1.1 it has full power to appoint the Investment Manager on the terms of this Agreement;

22.1.2 it has read and fully understood the terms of the Agreement including the information in the Appendixes;

22.1.3 (unless otherwise disclosed to the Investment Manager) it acts as principal and not as an agent, representative, trustee or custodian of someone else;

22.1.4 any information which it has provided to the Investment Manager is complete and accurate and the Client agrees to provide any further information properly required by any competent authority;

22.1.5 the documents handed over by the Client are valid and authentic;

22.1.6 the entry into the Agreement and the performance of all its obligations hereunder, will not violate any law or rule applicable to the Client or any agreement by which the Client is bound or by which any of the Client's assets are affected;

22.1.7 the Client's Financial Instruments and money are not in any direct or indirect way the proceeds of any illegal activity or used or intended to be used for illegal activities; and

22.1.8 the Client is the legal and beneficial owner of the assets in the Portfolio, and the assets are free from all liens, charges or other encumbrances and that no liens, charges or other encumbrances shall arise from the Client's acts or omissions, except as may be stated in Schedule 1.

22.2 The Client undertakes not to deal, except through the Investment Manager, with any of the investments and other assets comprised in the Portfolio or to authorise anyone else so to deal with them.

22.3 The Client will notify the Investment Manager forthwith if there is any material change in any such information provided under the Agreement.

22.4 The Client shall promptly give (or procure to be given) to the Investment Manager such information as the Investment Manager may require to enable the Investment Manager to comply with all applicable disclosure obligations or requirements from time to time under the Cyprus Companies Law, CAP 113, the Law and any rules or regulations of any relevant jurisdiction, exchange, market or regulatory authority in each case applicable from time to time to the Investment Manager, the Client and/or the investments comprised in the Portfolio.

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22.5 The Client agrees and acknowledges that any breach of any of the representations and warranties given by the Client under this clause 22 and any breach of any of the provisions of this Agreement by the Client (including any failure of the Client to provide information to the Investment Manager as provided for under this clause 22) may adversely affect the Client's Portfolio and the provision of the Services by the Investment Manager to the Client.

## **DELEGATION, ASSIGNMENT AND THIRD PARTY RIGHTS**

### **23. Delegation and use of agents**

23.1 To the extent permitted by Law, the Investment Manager may appoint agents (including Associates) to perform any administrative, dealing and/or ancillary services (not covered in clause 23.1) required to enable the Investment Manager to perform the Services. The Investment Manager will act in good faith and with reasonable skill and care in its choice, use and monitoring of such agents.

### **24. Assignment and third party rights**

24.1 This Agreement is personal to the Client and shall not be capable of assignment by the Client or of being transferred by it, without the prior written consent of the Investment Manager.

24.2 The Investment Manager may, on giving 10 (Ten) calendar days' prior written notice to the Client, assign any of its rights and responsibilities under this Agreement, to a suitable person and to appoint any appropriate Associate as investment manager in its place considering the consent of all parties involved.

## **COMPLAINTS AND COMPENSATION**

### **25. Complaints**

25.1 Complaints relating to the Services may be made by any means and should in the first instance be made to the Investment Manager. Complaints made in writing may be made to the Investment Manager at the address stated in clause 27.11 of the Agreement or via the procedure described in the Complaints Management Policy Appendix 12 hereto. Complaints to the Investment Manager will be dealt with in accordance with the provisions of the Law.

25.2 The Client has the option, upon its receipt of the final decision of the Investment Manager, to maintain the complaint directly to the Regulator and as provided in the Law.

25.3 The Investment Manager has put in place internal procedures for handling complaints fairly and promptly. A copy of the Investment Manager's complaints handling procedure is available on request and will otherwise be provided in accordance with the Law.

### **26. Investors' Compensation Fund**

26.1 The Investment Manager is a member of the Investors' Compensation Fund, details of which are provided in Appendix 9.

26.2 Professional Clients and Eligible Counterparties are not entitled to compensation from the Investors' Compensation Fund.



## **NOTICES AND AMENDMENTS**

### **27. Notices, instructions and other communications**

27.1 The Client may, from time to time, give instructions to the Investment Manager directing the Investment Manager to take, or refrain from taking, particular actions under this Agreement. Such instructions shall be 'specific instructions' as described in clause 11.3 above.

27.2 Such instructions may include requests for the delivery of any cash held in the Client's account (subject to the Investment Manager retaining sufficient assets to comply with prior commitments and being reimbursed for any costs and expenses necessarily incurred in arranging the withdrawal) and requests for the delivery of some or the entire Portfolio.

27.3 Instructions from the Client (other than instructions to amend this Agreement to which clause 28 applies) shall be adhered to and/or executed (as applicable) by the Investment Manager within 3 (three) Business Days (plus any time needed by third parties involved) from their receipt, unless the Client is advised that the Investment Manager believes such compliance may not be practicable or may cause either Party to be in contravention of any law, rule or regulation, injunction or court order.

27.4 The Investment Manager may rely and act on any notification, instruction or other communication which purports to have been given (and which is reasonably believed to have been given) by or on behalf of an Authorised Person and, subject to the Client Questionnaire and/or Schedule 2, by whatever means transmitted and whether or not in writing and, unless the Investment Manager shall have received written notice to the contrary, whether or not the authority of any such person shall actually have been terminated. The Authorised Persons are specified in the client request form.

27.5 Subject to clause 27.4, any notification, instruction or communication given to the Investment Manager under this Agreement to be effective, must comply with the requirements of the Client Questionnaire and/or Schedule 2.

27.6 All written communications by the Investment Manager to the Client under this Agreement shall be sent to the last address notified to the Investment Manager by the Client.

27.7 Any message, instruction, notice, request given or made in accordance with the provisions of the Agreement shall be given in writing and sent by commercial courier service, email or facsimile and shall be deemed delivered:

27.7.1 if sent by commercial courier, at the date of signing of the document on receipt of such message, or

27.7.2 if sent by email, upon dispatch by the sender, provided that the sender keeps records of outgoing messages, or

27.7.3 if sent by facsimile, upon receipt by the sender of a transmission report from the facsimile machine confirming that the message was sent to the recipient's facsimile machine.

27.8 Telephone conversations with the Client may be recorded by the Investment Manager and such recordings and/or transcripts of such recordings may be used as evidence of such communications. The content of relevant face-to-face conversations with a client could be recorded by using written minutes or notes. Such orders should be considered to be equivalent to orders received by telephone.



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27.9 The Client consents to the provision of the information contained in the Appendixes through the Investment Manager's website at [www.zerichsecurities.com](http://www.zerichsecurities.com) under "Disclosures" or such other website as the Investment Manager may maintain from time to time for access by Clients.

27.10 The Client confirms that he has regular access to the internet and consents to the Investment Manager providing him with information including, without limitation, information about the terms and conditions, costs, fees, policies and information about the nature and risks of investments by posting such information on the Investment Manager's website.

27.11. The Investment Manager's address for communications:

13-15 Grigory Afxentiou Street, I.D.E. Ioannou Building - Office 202, Mesa Yeidonia, CY-4003 Limassol, e-mail: [cyprus@zerichsecurities.com](mailto:cyprus@zerichsecurities.com).

## 28. Amendments

28.1 In case of any amendment of the Law, or other relevant legislation or decision of a competent authority or a statutory provision in Cyprus or abroad, that may affect the relationship between the Portfolio Manager and the Client, the Portfolio Manager may amend unilaterally the terms of the Agreement, provided that it shall give a relevant notice to the Client as clause 27 (Notices) provides or publish the amendment in a daily newspaper that is circulated throughout Cyprus and on the Portfolio Manager's website.

28.2 In case of any amendment of the fee, commission and expenses in relation to the Agreement, unless this is the result of the cases set out in Clause 28.1, the Portfolio Manager shall notify communicated the Client in accordance with Clause 27 and the Client shall be deemed to have accepted the amendment where he/she shall not submit his/her objection in writing within 10 (Ten) calendar days following the sending of the notification.

28.3 In any case of amendment of the Agreement other than the abovementioned, the Portfolio Manager shall be entitled to amend the Agreement provided that it gives, pursuant to Clause 27, a 10 (Ten) days' notice to the Client, and that it shall not receive, pursuant to Clause 27, the Client's objection to the intended amendment during the 10 (Ten) days' notice period.

28.4 Without prejudice to the provisions of Clauses 28.1-28.3 above, the Agreement may also be amended by agreement in writing between the Parties if both Parties agree to waive the Notice Period.

28.5 The amendments of the Agreement pursuant to Clauses 28.1-28.4 above, shall not affect the validity and the binding nature of the terms of the Agreement.

## **TERMINATION, SET-OFF, REDEMPTION/DELIVERY OF ASSETS AND FORCE MAJEURE**

### 29. Termination

29.1 Except as provided in clauses 19.3 and 31, and subject to clauses 29.7, 29.8 and 29.9, the Client may terminate this Agreement at any time by 10 (Ten) days' prior written notice to the Investment Manager, unless otherwise agreed between the Parties.

29.2 Subject to clause 31, the Investment Manager may terminate this Agreement on 10 (Ten) days' written notice to the Client or by immediate notice if so, required by any competent regulatory authority.

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29.3 Notwithstanding the provisions of clauses 29.1 and 29.2, the Investment Manager shall have the right to unilaterally suspend or terminate the provision of the Services to the Client and close any and all relevant account(s) without the Client's prior consent, upon occurrence of any of the following events:

29.3.1 a Non-Payment Event, meaning an event which shall be deemed to occur upon occurrence of any of the following, unless the Investment Manager agrees not to treat such occurrence as a Non-Payment Event:

(a) the Client more than once does not pay or deliver any Financial Instruments and/or any funds when due or deliverable and in the required currency to the Investment Manager or to the person appointed for these purposes by the Investment Manager;

(b) any undisputed amount, including (but not limited to) reimbursement of expenses, payment of fees, remains due and owing to the Investment Manager for more than 3 (three) Business Days.

29.3.2 a Non-Compliance Event, meaning an event which shall be deemed to occur upon determination by the Investment Manager that any of the following has occurred:

(a) the Client does not comply or has improperly complied with the terms and conditions of the Agreement or obligations imposed upon the Client by the Law;

(b) any of the representations or warranties given by the Client are or become inaccurate, incorrect or misleading in any material respect;

(c) the Client fails to give to the Investment Manager any of the notices or to provide or supply to the Investment Manager any of the documents, data or information provided by or determined in accordance with the Agreement.

29.3.3 a Material Adverse Change Event, meaning a material adverse change in the Client's financial situation or condition, which, in the Investment Manager's opinion, may reasonably lead to a Non-Payment Event, a Non - Compliance Event or an Event of Default (unless the Client provides to the Investment Manager adequate assurance of the Client's ability to perform its obligations within 24 (twenty four) hours after receipt of the relevant request from the Investment Manager)

29.3.4 an Event of Default, meaning an event which shall be deemed to occur upon occurrence of any of the following:

(a) a petition or resolution is presented for the winding-up/dissolution or administration of the Client;

(b) the Investment Manager is informed by the Client or otherwise or reasonably anticipates that the Client becomes or will become insolvent or unable to pay its debts and the Client does not give to the Investment Manager adequate assurance of the Client's ability to perform its obligations within 24 (twenty four) hours after receipt of the relevant request from the Investment Manager;

(c) an application is filed in respect of the Client or any of its affiliates with regard to the winding up of the Client or any of its affiliates or, if a partnership, in respect of one or more of the partners, or a company, a receiver and manager, trustee, administrative receiver or similar officer is appointed;



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(d) the Client fails to provide assets for delivery, or take delivery of assets, under any contract on the first due date or fails to comply with any other obligations under the Agreement or any contract;

(e) any security created by any mortgage or charge becomes enforceable against the Client and the mortgagee or charge takes steps to enforce the security or charge;

(f) any distress, execution or other process is levied against any property of the Client and is not removed, discharged or paid within 3 (three) Business Days;

(g) any indebtedness of the Client or any of its subsidiaries becomes immediately due and payable, or capable of being declared so due and payable, prior to its stated maturity by reason of default of the Client (or any of its subsidiaries) or the Client (or any of its subsidiaries) fails to discharge any indebtedness on its due date.

29.4 On the occurrence of an Event determined by the clause 29.3 hereof:

29.4.1 the Investment Manager shall not be obliged to deliver any Assets transferred to or held by the Investment Manager or its Associate in a Portfolio received or receivable for the Client under any contract or transaction or to repay any sums in any margin or collateral account or otherwise held by the Investment Manager or an Associate for the Client or deliver any property to the Client until the Investment Manager has received all money and Securities due from the Client and no contracts remain unperformed; and/or

29.4.2 the Investment Manager may close out and terminate all contracts or transactions with the Client (except to the extent that the contracts or transactions may not be closed-out and terminated under applicable law) immediately by written notice to the Client notwithstanding that the dates fixed for performance of all or any of such contracts or transactions may not have arrived, liquidate all or any hedging positions relating to any such contracts or transactions, and/or declare any sums in the nature of debts payable by the Client to us to be immediately due and payable; and/or

29.4.3 the Investment Manager may perform any and all such open contracts or transactions and for that purpose: (i) buy or sell in the primary (cash) market the security underlying any open contract or transaction and make or take delivery thereof as the case may require, on such terms and by such method(s) as the Investment Manager considers expedient; and/or (ii) borrow any currency or security; and/or (iii) apply any collateral and/or Assets; and/or (iv) buy or sell any currencies; and in each case all sums expended or liabilities incurred by the Investment Manager pursuant to the foregoing in excess of any Collateral and Assets held by the Investment Manager shall be paid by the Client to the Investment Manager on demand; and/or

29.4.4 the Investment Manager may terminate the Client's money market instruments prior to their maturity.

29.5 If the Investment Manager elects to close-out any contract or transaction pursuant to Clause 29.4 above then without prejudice to amounts which have become due and payable, all open obligations under the contract or transaction will be cancelled as of the date of close-out and the present values of all such cancelled obligations shall be determined by the Investment Manager in good faith, having regard to prevailing values, prices and rates of exchange where available. The values so determined and any amounts due and payable but unpaid in respect of closed-out contracts or transactions shall be netted against each other, so that a single liquidated net amount shall be due and payable by the Client to the Investment Manager or by the Investment

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Manager to the Client (as the case may be) by the close of business on the Business Day following close-out without prejudice to any other rights of set off which the Investment Manager may enjoy whether under this Agreement or otherwise;

29.6 In the absence of any instructions from the Client to the contrary, the Manager may, in its sole discretion, credit any balance in the Client's favour resulting from the operation of this Clause 29 to the appropriate Portfolio or Portfolios.

### 30. Consequences of termination

30.1 Termination of this Agreement pursuant to clauses 19.3 and 29 shall be:

30.1.1 without prejudice to the completion of any transaction or transactions already initiated and any transaction or transactions outstanding at the time of termination will be settled and delivery made;

30.1.2 without prejudice to and shall not affect any accrued rights, existing commitments or any contractual provision intended to survive termination; and

30.1.3 without penalty or other additional payment (except as provided herein) save that the Client shall be obliged to pay:

- (a) the fees and charges accrued and due to the Investment Manager pro rated to the date of termination;
- (b) any expenses incurred by the Investment Manager under this Agreement payable by the Client;
- (c) any additional expenses incurred by the Investment Manager in terminating this Agreement; and
- (d) any losses realised in settling or concluding outstanding obligations.

30.2 On, following or in connection with termination of this Agreement, the Investment Manager shall be entitled, in its absolute discretion and without prior notice to the Client, acting in its capacity as custodian or otherwise to take such actions as may be required to give effect to the provisions of clause 30.1 and/or to settle or complete transactions already initiated and to pay or discharge any outstanding liabilities or obligations of the Client.

30.3 The Client agrees that in case of termination for any reason whatsoever all mutual settlements between the Investment Manager and the Client shall be completed not later than on the 10 (tenth) Business Day from the date of termination.

30.4 In case of termination, where the Client fails to comply with the provisions of clause 30.1.3, the Investment Manager shall be authorised to retain sufficient money and/or Financial Instruments to ensure settlement of outstanding transactions and payment of all outstanding Liabilities whether due or not and payable or not by the Client, including liabilities to the Investment Manager. The Investment Manager may request the Client to execute certain securities sale and purchase transactions or submit certain documents necessary for proper performance of Client's outstanding obligations.

### 31. Set-Off

31.1 The Client hereby authorizes the Investment Manager (in the Investment Manager's absolute discretion), without prior notice to the Client, to transfer at any time or allocate Assets



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between any and all of the Portfolios for the purpose of, or with a view to, application of such Assets in discharge of and set-off (whether or not arising under the Agreement, matured or contingent and irrespective of the currency, place of payment or place of booking of the obligation) against any obligation owed by the Client under any Portfolio.

31.2 For the avoidance of doubt, if the aggregate amount owed by the Client under one or more Portfolios which are the subject of a set-off pursuant to this Clause is greater than the aggregate amount of Assets transferred or applied in set-off from another Portfolio, the Client shall, upon notice from the Investment Manager, no later than 3 Business Days from the date of such notice, transfer an amount in cash and/or in other assets to cover such deficiency on the relevant Portfolio or Portfolios. Such transfer or allocation from one Portfolio to another Portfolio shall extinguish any obligation on the part of the Investment Manager to repay or deliver Assets back to the original Portfolio.

31.3 If an obligation is unascertained or unliquidated, the Investment Manager may in good faith estimate the obligation and set-off in respect of the estimate, subject to the relevant party accounting to the other when the obligation is ascertained or liquidated. If the obligations are in different currencies, the Investment Manager may convert the obligations at a market rate of exchange in the usual course of its business for the purposes of set-off. The Client agrees to indemnify the Investment Manager for any loss, damage, costs, claims and demands arising as a result of the operation of this set-off.

## 32. Redemptions and Delivery of Assets

32.1 Subject to provisions of this Agreement, the Client, may at any time, by giving an instruction in writing (the “**Redemption Request**”) withdraw all or any portion of his/her Assets in any Portfolio. The Redemption Request shall be served **5 (Five) business days in advance** of the desired redemption date. The Redemption Request must specify the type of delivery of the Assets, i.e., whether the Client requests the Assets to be liquidated by the Investment Manager and delivered in cash or whether the Client requests delivery of the Assets in kind.

32.2 Subject to any limits indicated in each Portfolio under the Investment Declaration and the Investment Manager’s internal policies, upon receipt of the Redemption Request:

32.2.1 in the event, the Redemption Request requests delivery of the Assets in-kind, the Investment Manager shall (provided the Client has provided the Investment Manager with all requested information and documents on a timely basis), deliver to the Client (or shall procure such delivery of) the Assets indicated in the Redemption Request, or in the event of termination of this Agreement deliver all of the Assets, within 5 (Five) business days (unless a longer period for delivery of a particular Asset is imposed by subscription agreements, offering memorandum or other documents pursuant to which such Asset was acquired) of receipt by the Investment Manager of such Redemption Request. For the purpose of Redemption, the Redemption Request shall be a specific order and the Investment Manager shall not be liable for any loss, direct or indirect, that may be caused to the Client due to the Redemption Request and the actions the Investment Manager shall have to undertake in order to execute the Redemption;

32.2.2 in the event the Redemption Request requests delivery in cash, which requires liquidation of the Assets, the Investment Manager shall make such delivery within 5 (Five) business days or, if longer time required by circumstances, at the time when liquidation of each relevant Asset is completed, and in the event that, in the reasonable opinion of the Investment Manager, a particular Asset cannot be liquidated within the reasonable time, the Investment Manager 13-15 Grigori Afxentiou Street, I.D.E. Ioannou Court, Office 202, Mesa Geitonia, 4003, Limassol, Cyprus Tel. +357 25 755 337, Fax +357 25 755 336, Email [cyprus@zerichsecurities.com](mailto:cyprus@zerichsecurities.com), [www.zerichsecurities.com](http://www.zerichsecurities.com)



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reserves the right, to transfer such Asset in-kind to the Client. Notwithstanding any statement to the contrary, any Redemption Request requesting liquidation of the Assets and return of cash shall be subject to the liquidity of the Assets in the relevant Portfolio and such Assets shall be liquidated at the Bid NAV (Net Asset Value) of the Portfolio.

32.2.3 in the event delivery is requested in cash and Portfolio has sufficient amount of cash as of the date of the Redemption request, the Investment Manager shall deliver such cash in the currency which is in the Portfolio, provided the Client has provided the Investment Manager with all requested information and documents on a timely basis and in accordance with the Investment Manager's internal procedures, to the account of the Client within 5 (Five) business days of receipt by the Investment Manager of such Redemption Request.

32.3 Notwithstanding Clause 32.2 above, the Investment Manager shall be under no obligation to deliver in-kind any securities or investment instruments where the Investment Manager, in its sole opinion, determines that such delivery is forbidden or made impracticable by any applicable law, rule or regulation. In such event the Investment Manager shall so notify the Client and continue to hold such securities or investment instruments until further instructions from the Client. For the avoidance of doubt, the Client acknowledges that the securities or investment instruments may be in the form of synthetic investments or other uncertificated form and that transfer of such securities or investment instruments may be impracticable or impossible, in which case this Clause will apply.

32.4 Notwithstanding anything to the contrary, any delivery of the Assets, in cash or otherwise, shall be subject to the Investment Manager agreeing, in its absolute discretion to release such Assets from the security and having the right to retain sufficient funds to comply with prior commitments and undertakings incurred pursuant to this Agreement, including without limitation any applicable fees as per Appendices hereto, or costs and expenses due to the Investment Manager hereunder and/or to apply such funds (by debiting the Client's account) towards the satisfaction of any costs and expenses reasonably incurred by the Investment Manager in arranging such delivery and always provided that such obligation of the Investment Manager to deliver any Assets (or procure such delivery) shall be conditional upon the Investment Manager being fully satisfied that all obligations of the Client hereunder have been discharged in full. Delivery shall be at the expenses and risks of the Client.

### 33. Force Majeure

33.1 Subject to clause 33.4, the Parties shall be relieved from liability for failure to comply with their respective obligations under the Agreement to the extent that such failure is caused by Force Majeure.

33.2 Force Majeure means any extraordinary event which has occurred after the signing of the Agreement by the Client, preventing either of the Parties from performing any or all of its obligations under this Agreement, which arises from or is attributable to acts, events, omissions or accidents beyond the reasonable control of the Party so prevented and shall include, without limitation: natural disasters, military operations, changes of political regimes, acts of terrorism, wars (including declaration of war), civil unrest, strikes, lock-outs or other industrial disputes (whether involving the workforce of the Party so prevented or of any other party), epidemics, pandemics, quarantine, lock-down, blockades and embargoes, restrictive acts of any authority, sanctions, changes in the applicable legislations, earthquakes, floods, fires, failure or breakdown in communications, computer facilities or software, failure of any relevant exchange, clearing



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house, settlement system or broker for any reason to perform its obligations, other circumstances similar with aforesaid or amounting to Acts of God that are beyond reasonable control of the Parties.

33.3 The Party relying upon Force Majeure shall be obliged to notify the other Party of occurrence and the termination of such Force Majeure as soon as it is practically possible and in any event within 3 (Three) Business Days from the occurrence and termination of such Force Majeure. Such notification shall contain information as to the nature of the Force Majeure and, to the extent possible, an estimate of its effect on the ability of the Party relying upon Force Majeure to carry out its obligations under the Agreement and an estimate of the period during which the Force Majeure would last.

33.4 Force Majeure shall not relieve the Parties from the obligation to employ any and all possible measures to avoid or reduce the damage caused by the failure to perform or inadequate performance of this Agreement which arose as a result of Force Majeure.

33.5 Release of a Party from responsibility for a delay and/or failure to properly comply with any obligation affected by Force Majeure under the Agreement does not mean any release of this Party from responsibility for failure to comply with any other of its obligations not being so affected by Force Majeure.

33.6 In the event that a Force Majeure event continues for a continuous period of more than 6 (six) months either Party may terminate this Agreement by written notice to the other Party.

## **GENERAL**

### **34. Confidentiality**

34.1 The Investment Manager is not obliged to disclose to the Client or in making any decision or taking any action in connection with the investment management of the Portfolio to take into consideration, information:

34.1.1 where the disclosure of it to the Client would be a breach of duty or confidence to any other person; or

34.1.2 which comes to the notice of an employee, officer or agent of the Investment Manager, but does not come to the actual notice of the individual managing the Portfolio or making the decision or giving the advice in question.

34.2 The Parties to this Agreement will at all times keep confidential all confidential information acquired as a result of the Agreement, except for information:

34.2.1 which they are bound to disclose by law or regulation;

34.2.2 by request of regulatory or fiscal authorities or courts of competent jurisdiction;

34.2.3 to their professional advisers, auditors or insurers (where reasonably necessary for the performance of their professional services);

34.2.4 required to be disclosed in the course of legal proceedings between the Parties;

34.2.5 for which disclosure has been authorized in writing by the other Party.





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34.3 Provided that the Client agrees that the Investment Manager may provide information about the Client to other members of the Investment Manager's group and to third parties to the extent required to enable the Investment Manager to provide the Services to the Client.

### 35. Data Protection

35.1 The Investment Manager will act as data controller (and in certain circumstances, data processor) within the meaning of the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (as amended from time to time) (the "**Data Protection Law**") in relation to any personal data supplied to it in connection with this Agreement. Each Party undertakes to comply with its obligations under this law in relation to such personal data.

35.2 The Client hereby acknowledges and agrees that the Investment Manager, its Associates and agents may be processing and using personal data (as defined in the Data Protection Law) given by or on behalf of the Client under this Agreement for the provision of services to the Client, which may include the transfer of such data out of the European Economic Area (as defined in the Data Protection Law).

35.3 The Client agrees that such data may also be used by the Investment Manager and its agents and Associates to update client records, to advise the Client of other products and services unless the Client has indicated otherwise and for such other purposes as the Investment Manager may notify from time to time.

35.4 The Client undertakes to supply personal data to the Investment Manager in accordance with the provisions of the Data Protection Law and shall provide the Investment Manager with reasonable cooperation and assistance in ensuring that the processing and use of personal data described in this Clause 35 is conducted in accordance with the Data Protection Law.

### 36. Joint account etc

36.1 Where the Client comprises two or more persons:

36.1.1 the liabilities and obligations of the Client under this Agreement shall be joint and several obligations of such persons and references to the Client shall be construed accordingly;

36.1.2 subject to the Schedule, any instruction or notice given by one of the persons who form the Client shall be deemed to have been given by all the persons who form the Client; and

36.1.3 any notice or other communication given to any such person shall for the purposes of this Agreement be deemed to be given to all.

36.2 In the event of the death of any of the persons constituting the Client, this Agreement shall not terminate and the Investment Manager may treat the survivor(s) as the only person(s) entitled to or interested in the Portfolio.

36.3 The Investment Manager's authority under the Agreement is given by the Client on behalf of its successors in title as well as itself. Accordingly, on the death of an individual Client (when clause 36.1 does not apply), the Agreement will continue in effect until terminated by the Client's personal representatives in accordance with clause 29. The Investment Manager may (but prior to any grant of representation, is not bound to) act on the instructions of the Client's personal representatives.



### 37. Further assistance

37.1 Each of the parties shall execute all deeds or documents (including any power of attorney) and do all such other things that may be required from time to time for the purpose of giving effect to the terms of this Agreement and the transactions contemplated by it.

### 38. Entire agreement and relationship

38.1 This Agreement constitutes the entire agreement and understanding of the parties and supersedes any previous agreement between the parties relating to the subject matter of this Agreement.

38.2 Each of the parties acknowledges and agrees that in entering into this Agreement, and the documents referred to in it, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether a party to this Agreement or not) other than as expressly set out in this Agreement. Nothing in this clause shall, however, operate to limit or exclude any liability for fraud.

38.3 None of the Services nor any other matter shall give rise to any fiduciary or equitable obligations which would prevent or hinder the Investment Manager in transactions with or for the Client from acting as both principal and agent, dealing with other clients and generally effecting transactions as provided in this Agreement.

38.4 Nothing in this Agreement (or any of the arrangements contemplated by it) shall be deemed to create a partnership between the parties.

### 39. Miscellaneous

39.1 Each of the parties shall pay the costs and expenses incurred by it in connection with negotiating and entering into this Agreement.

39.2 No failure to exercise or delay in exercising any right or remedy under this Agreement shall constitute a waiver of that or any other right or remedy and no single or partial exercise of any right or remedy under this Agreement shall preclude or restrict any further exercise of such right or remedy. The rights and remedies contained in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.

39.3 If any term or provision in this Agreement shall in whole or in part be held to any extent to be illegal or unenforceable under any enactment or rule of law, that term or provision or part shall to that extent be deemed not to form part of this Agreement and the enforceability of the remainder of this Agreement shall not be affected.

39.4 The Client has to promptly inform the Investment Manager in writing in case the details of the Client as these were presented to the Investment Manager at the time of signing this Agreement have changed.

## **GOVERNING LAW, JURISDICTION AND COUNTERPARTS**



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#### 40. Governing Law and Jurisdiction

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

40.2 In relation to any dispute arising out of or in connection with the Agreement, the Client hereby irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of the Republic of Cyprus and waives any objection to proceedings with respect to the Agreement in such courts on the grounds of venue or inconvenient forum.

40.3 Nothing in this clause shall limit the right of the Investment Manager to take proceedings against the Client in any other court of competent jurisdiction, nor shall the taking of proceedings in any one or more jurisdictions preclude the taking of proceedings in any other jurisdictions, whether concurrently or not, to the extent permitted by the law of such other jurisdiction.

#### 41. Counterparts

41.1 This Agreement may be executed in any number of counterparts and by the parties on separate counterparts, but shall not be effective until each of the parties has executed at least one counterpart.

41.2 Each counterpart shall constitute an original agreement but all the counterparts together shall constitute one and the same instrument.

### DURATION AND SEVERABILITY

#### 42. Duration

42.1 This Agreement shall enter into force on the date specified in clause 3.2. and it shall be valid for an indefinite period unless terminated in accordance with the terms of clause 29 hereof.

#### 43. Severability

43.1 If any provision of this Agreement is or becomes invalid, illegal or unenforceable under the Law, the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired provided that the purpose of this Agreement is not affected. The Parties shall nevertheless negotiate in good faith in order to agree the terms of mutually satisfactory provisions, achieving as closely as possible the same commercial effect, to be substituted for the provisions so found to be void or unenforceable.

#### 44. Inducements

44.1. Where the Investment Manager pays or is paid any fee or commission or provides or is provided with any non-monetary benefit in connection with the provision of an investment service or ancillary service to the client, it shall ensure that all the conditions set out in Directive 2014/65/EU and requirements set out in Commission Delegated Directive (EU) 2017/593 of 7 April 2016 are met at all times.

44.2. Investment Manager shall hold evidence that any fees, commissions or non-monetary benefits paid or received by the firm are designed to enhance the quality of the relevant service to the client:



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(a) by keeping an internal list of all fees, commissions and non-monetary benefits received by the investment firm from a third party in relation to the provision of investment or ancillary services; and

(b) by recording how the fees, commissions and non-monetary benefits paid or received by the investment firm, or that it intends to use, enhance the quality of the services provided to the relevant clients and the steps taken in order not to impair the firm's duty to act honestly, fairly and professionally **in accordance with the best interests of the client.**

**The Client confirms that they have had the opportunity to consider the information, ask questions and have had these answered satisfactorily. The Client acknowledges their approval and acceptance of the following and guarantees and warrants that they acknowledge this Agreement and the documents listed in the Schedule below. The Investment Declaration is fully understood and agreed by the Client. The Company has warned the Client that ZERICH SECURITIES LIMITED strictly complies with the requirements of applicable legislation and provisions of internal policies and procedures and the relevant essential information may be found by Client at [www.zerichsecurities.com](http://www.zerichsecurities.com).**

**Schedule:**

Appendix 1	Valuation Policy
Appendix 2	Portfolio Management Agreement
Appendix 3	Costs, Charges and Inducements
Appendix 4	TTCA Declaration
Appendix 5	Risk Disclosure Statement
Appendix 6	Policy on Dealing Fees
Appendix 7	Conflicts of Interest Policy
Appendix 8	Client Categorization Policy
Appendix 9	Investor Compensation Fund
Appendix 10	Data Protection Policy
Appendix 11	Order Execution Policy
Appendix 12	Complaints Management Policy