



Terms and Conditions for clients of Financial Advisers

These *Terms and Conditions* are divided into four parts:

- **Sections 1-4** is an Introductory Section to these *Terms and Conditions*.
- **Sections 5-50** cover the Terms applicable to our Investment Management and Dealing Services.
- **Sections 51-60** in addition to Sections 5-49 cover the Terms applicable to any *ISA* accounts you may have with us.
- **Sections 61-64** cover the use of the Internet Valuation Facility (if applicable depending upon the service agreed between us).

1. Introduction and legal status

- 1.1 This document is very important as it forms part of a legal contract (our *Agreement*) and you must read and ensure that you understand the contents. Please ensure that you are in possession of all the constituent documents forming our *Agreement* (as detailed in the Definitions section at the end of these *Terms and Conditions*) and inform us if any of these documents are missing. If there is any part of this document, or any other document which you do not understand, you should contact us accordingly.
- 1.2 Words and phrases used in these *Terms and Conditions* shown in italics have, unless the context requires otherwise, their meanings set out in the Definitions section at the end of these *Terms and Conditions*. For the purpose of these *Terms and Conditions*, references to “we”, “our”, “Manager” or “us” refer to Investec Wealth & Investment Limited (*IW&I*) and references to “you” or “your” refer to the party or parties named on the front page of the *Client Agreement* (if applicable), unless otherwise stated.
- 1.3 The documents comprised in our *Agreement* shall in the event of any conflict between the terms contained in any of them take priority over each other in the order in which they are listed in the definition of “*Agreement*” in the Definitions section at the end of these *Terms and Conditions*.
- 1.4 Upon entering into this *Agreement*, and at any other time during which these *Terms and Conditions* are in force, there will be documents and other information we may reasonably require that we may ask you to provide or expect you to provide in order to provide services under this *Agreement*. This will include:
- providing us with prompt notification of changes to any bank account or third party payment details previously instructed to us; and
 - asking you to provide us with information necessary for us to be able to assess your knowledge and experience in relation to particular products and services, and your financial situation and *investment* objectives, so as to enable us to recommend the *investment* services and financial instruments that are suitable for you.

1.5 General information about *IW&I*:

- 1.5.1 The main business of *IW&I* is the provision of private client *investment* and stockbroking services.
- 1.5.2 Our *Registered Office* is at 2 Gresham Street, London EC2V 7QP. The other addresses at which we carry out business with you can be found in our most recent rate card, and may be found on the letterhead received from your chosen Investment Manager. You can check this on the FSA’s Register by visiting the FSA’s website www.fsa.gov.uk/register or by contacting the FSA on 0845 606 1234.
- 1.5.3 We are authorised and regulated by the Financial Services Authority (*FSA*) and we are entered on the *FSA*’s Register under number 124537. The address of the *FSA* is: 25 The North Colonnade, Canary Wharf, London, E14 5HS.
- 1.5.4 The firm does not make any specific costs to you for dealing with us by *means of distance communication*.
- 1.5.5 These *Terms and Conditions* do not have any minimum duration, although we reserve the right to vary or amend these *Terms and Conditions* in accordance with section 39 (*Changes*).
- 1.5.6 These *Terms and Conditions* are supplied in English and, in accordance with section 44 (Governing Law), English Law shall govern this *Agreement*. We will communicate in English with you for the purposes of this *Agreement* and in respect of all services we provide to you.
- 1.5.7 Generally we will communicate with you using the means by which you communicate with us, unless we regard there to be a more effective means by which to communicate with you, having regard to your circumstances.

2. Customer classification

- 2.1 In accordance with the *FSA Rules*, we are required to assign you a particular classification. On the basis of the information which you have provided to us, we will categorise you as a **retail client**, unless we have indicated otherwise that you will be categorised as a **professional client**. If we have categorised you as a **professional client**, you will be subject to less extensive regulatory protection as indicated in sections 5.5, 21 and 46 of these *Terms and Conditions*. You have the right to request that you be categorised differently from the category we have given you.
- 2.2 We will also further categorise you as one of the following:
- a discretionary customer;
 - an advisory *investment* managed customer;
 - a dealing with advice customer; or
 - an execution only customer.
- The services which we will provide to you will depend upon your classification, as described in section 5 (The services we will provide).
- 2.3 The application of these *Terms and Conditions* to you will also vary depending upon your customer classification, and you should note carefully in these *Terms and Conditions* where it is indicated that particular provisions apply only to particular categories of customer.

3. Overseas residents

- 3.1 Our services may not be available in countries where they are prohibited by local law. If you are in any doubt, you are strongly advised to contact your legal

adviser. We will not be responsible for the use of our services, and the consequences thereof, where this is prohibited by local law.

4. Investments in which we will transact

- 4.1 The types of *investments* which we will transact and advise you upon will be those for which we are authorised by the *FSA*. Please note that in relation to *investments* in warrants, options, securitised derivatives, futures, or contracts for differences, separate documentation (including appropriate risk warnings) must be completed, signed and returned to us before we can advise or deal on your behalf.

INVESTMENT MANAGEMENT AND DEALING SERVICES

5. The services we will provide

- 5.1 For **discretionary customers**:
- 5.1.1 We will provide a personalised *investment* management service to you in relation to those *investments* and your *free money*, for which we are authorised to advise and transact in under the *Act* on a discretionary basis as specified in your *Client Agreement*. This means that we will manage your portfolio on your behalf, taking *investment* decisions on the basis of your specified *investment* objectives and risk profile. We shall have full authority at our discretion and without prior reference to you to enter into any kind of transaction or arrangement for your account in relation to any *investments* and *free money*.
- 5.2 For **advisory *investment* managed customers**:
- 5.2.1 We will provide a personalised *investment* management service to you in relation to those *investments* for which we are authorised to advise and transact in under the *Act* on an advisory basis as specified in your *Client Agreement*. This means that you are responsible for all *investment* decisions, although we do make recommendations on the basis of your specified *investment* objectives and risk profile. We will accept responsibility for the suitability of our recommendations, and (to the extent that you follow these recommendations) for the portfolio as a whole. We cannot accept this responsibility if our recommendations are not followed and, we may, therefore reclassify you as a dealing with advice customer (see section 5.3.1).
- 5.3 For **dealing with advice customers**:
- 5.3.1 We will provide a dealing with advice service to you in relation to those *investments* for which we are authorised to advise and transact in under the *Act* on an advisory basis. This means that only when requested by you, we will offer advice and recommendations on individual stocks on the basis of your specified *investment* and risk profile, but we will not manage your portfolio as a whole.
- 5.4 For **execution only customers**:
- 5.4.1 We will provide an execution only service to you in relation to those *investments* for which we are authorised to transact in under the *Act*. We may also provide such other services as are agreed between us.
- 5.5 For all **discretionary customers, advisory *investment* managed customers and dealing with advice customers**:

- 5.5.1 Our *Client Agreement* invites you to state your *investment* objectives and any restrictions you wish to impose. You should note that, in the case of retail *investment* products, an amount of any *investment* or other restriction(s) specified as an *investment* restriction might be held within the retail *investment* product and for the purposes of adhering to your *investment* objectives and any restrictions, we will not take account of any *investment* held as part of a retail *investment* product. Please advise us in writing if you wish us to avoid retail *investment* products in view of this fact. If you wish to vary your *investment* objectives or those restrictions at any time you should contact us immediately and we will use reasonable endeavours to confirm any variation to you in writing. We shall also conduct a fact finding exercise with you to ensure that we have accurate information about your financial circumstances. You should be aware that if you do not complete our Financial Questionnaire in its entirety, this may affect the quality of service, which we can provide. Where we have not received from you the necessary information we require to assess suitability as required by the FSA's *Conduct of Business Rules* we must refuse to act for you. In such cases, you confirm to us that, unless otherwise agreed between us, all you require is a stocks and shares service, to be operated with a balanced objective and medium risk and to be operated completely in isolation from any other *investments*, portfolios, personal savings, property or liabilities you may have or any other needs which you may potentially require. If the circumstances disclosed in the fact find or elsewhere (such as any meetings we may have with you and/or your *financial adviser*) should change, it is your responsibility to notify us immediately of such change. However where we are aware that the information you have provided us with is manifestly out of date, inaccurate or incomplete you may be asked to provide further information we require and where that information is not provided we must refuse to act for you. Please note that for **discretionary customers**, our services are provided on the basis that you agree that you do not require key features documents to be sent to you in respect of non-*retail investment* products. Please note that this section may not apply if you are classified as a **professional client** (see section 2 (Customer classification)).
- 5.6 If you do not use our nominee service, we may not be able to deal for you using the London Stock Exchange standard settlement basis, as, for any instruction to sell, we must be in possession of a valid certificate and a signed transfer form before we will execute the order. This will result in trades taking longer to settle and may result in you dealing at a different price than that available for standard settlement when you originally wished to sell. If we hold a validly signed *Client Agreement* for you, we reserve the right to dematerialise all stock into our *nominee company* before execution of transactions.
- 5.7 We have certain responsibilities under various money laundering legislation and rules, know your customer requirements and taxation treaties in and outside the UK to verify the identity of customers and may need to make certain enquiries and obtain certain information from you for that purpose. You confirm that all information you supply to us directly, or through your *financial adviser* will be accurate and that we may pass on such information, as we consider necessary to comply with any legal or regulatory obligations to which we are subject.
- 5.8 Please note that:
- we will not advise you about the merits of a particular transaction if we reasonably believe that, when you give the order for that transaction, you are not expecting such advice and are dealing on an **execution-only** basis. Unless we agree to the contrary in writing, we will not be responsible for providing ongoing portfolio management services for stocks acquired on an **execution-only** basis.
 - we will not be obliged to provide to you announcements or other *market information* on any *investment* other than in respect of corporate actions for non-discretionary clients with stock in our custody.
 - for non retail *investment* product *investments* purchased against the sale of a retail *investment* product(s), the purchase of the non retail *investment* product(s) may be dealt for extended settlement.
 - the markets that we are prepared to deal on may be limited by our ability to settle or hold *investments* in certain jurisdictions.
- ## 6. Classification of investment objective and risk
- (this section is not applicable for execution only customers)
- 6.1 *Investment Objectives:*
- 6.1.1 On our *Client Agreement*, you are asked to specify which of the following you regard to be the most important aspect of your *investment* returns:
- Income
 - Growth
 - A balance between Income and Capital Growth
- 6.2 *Investment Risk and Risk Profiles:*
- 6.2.1 Investing in the type of securities traded on stock exchanges will mean that the value of the assets, and the income received from them, may go down as well as up and you may not get back all the money invested. There are six main reasons why this might happen:
- the actual or perceived financial standing and trading well-being of the organisation involved may change.
 - the *investments* themselves are subject to the laws of supply and demand and are capable of significant price movements irrespective of market and corporate factors. Such movements could be a reflection of the company size, marketability and liquidity.
 - the stock market itself is capable of large movements due to economic, political and other factors.
 - fixed interest *investments* are subject to the above factors and values are particularly affected by actual or expected changes in levels of interest rates. If they are purchased above their ultimate redemption price, a capital loss will be incurred if held to redemption.
 - Investments* may be denominated in a currency other than your base reference currency. Where an *investment* is denominated in a different currency you are exposed to fluctuations in the exchange rate of that currency as well as to the movement in the price of the *investment* itself. Changes in the exchange rate can cause the overall value of an *investment* to fall as well as to rise.
 - The tax treatment of any *investment* is determined by the specific circumstances of each client. Taxation may change during the lifetime of an *investment*. This may result in unanticipated tax liabilities. You should take tax advice in order to be aware of the potential liabilities before making an *investment*. If your circumstances change or you are uncertain of how an *investment* might affect your own tax position you should seek professional advice.
- 6.2.2 Assessing the relative risk of any of the factors referred to in 6.2.1 is highly subjective and can change over time in response to specific events or revised social or economic forecasts. It is not possible to lay down precise guidelines for the measurement of risk or the potential impact, whether positive or negative, upon an *investment* portfolio.
- 6.2.3 We will endeavour to understand the level of risk which you are prepared to take. You should be aware that by selecting one of the levels of risk in your *Client Agreement*, you will have agreed to accept that level of risk for your portfolio. If we effect transactions on your behalf/make recommendations to you, we are entitled to deal on this basis unless and until such time that you have notified us to the contrary in writing and this has been accepted by us.
- 6.2.4 Our policy on risk classification is detailed in the current "Managing Your Investments" document.
- 6.2.5 Please note that we regard the risk profile as a guide to the composition of an overall *investment* portfolio. Individual constituents may have a greater or lesser degree of risk than the overall portfolio.
- 6.2.6 Risk can be managed by creating a well-diversified portfolio which can include the use of retail *investment* product(s).
- ## 7. Retail Distribution Review status
- 7.1 In respect of business transacted in retail *investment* products any advice given or transactions entered into will be restricted. We will only offer advice on limited types of products. You may ask us for a full list of products we offer.
- ## 8. Restrictions on types of investment
- 8.1 If you do not inform us to the contrary, we are entitled to assume that there are no restrictions on the types of *investment* (except for those *investments* listed in section 4 (*Investments* in which we will transact)) or the market on which transactions are executed that we may recommend to you or purchase for you. However, in circumstances where we make a personal recommendation or act as an Investment Manager, under the rules of the FSA, we may recommend or purchase for you, only *investments* which we have reasonable grounds for believing are suitable for you having regard to the facts disclosed by you and/or your *financial adviser* on your behalf, and other relevant facts about you of which we are, or should be, aware.
- 8.2 Where this *Agreement* is addressed to a trust/ company/charity/pension fund, you warrant and undertake that:
- each Trustee/Director/Officer/Pension Fund Trustee is authorised to enter into this *Agreement*, to issue instructions individually to us and has the unencumbered power to invest Trust/Company/Charity/Pension Fund assets.
 - any restrictions on the authority referred to in section 8.2(a) above of each Trustee/Director/Officer/Pension Fund Trustee has been fully disclosed to us in accordance with the terms of this *Agreement*.
 - the Trustees/Directors/Officers/Pension Fund Trustees have the absolute power to appoint us, to delegate *investment* decisions and to appoint any third party listed in the *Client Agreement* or in the Nominated Persons Form to act as an agent for the Trust/Company/Charity/Pension Fund, as detailed in section 31 (Giving instructions) of this *Agreement*.
 - there are no restrictions relating to the *investment* of Trust/Company/Charity/Pension Fund assets other than those set out in the *Client Agreement*.
 - the Trustees/Directors/Officers/Pension Fund Trustees certify that having taken independent legal advice that all relevant Trust/Company/Charity/Pension Fund provisions have been disclosed and supplied to us and that such documents are true and accurate and that there are no other Trust/Company/ Charity/Pension Fund provisions or documents regulating the *investment* of assets.
 - the Trust/Company/Charity/Pension Fund will inform us immediately in writing of any change in any of the information supplied to us in accordance with this section or otherwise in accordance with the terms of this *Agreement* together with documentary evidence of such change.
- 8.3 Where this *Agreement* is addressed to a trust, you warrant and undertake that you will be exclusively responsible for compliance with any relevant trustee legislation and, where legislation dictates, will provide us with an alternative appropriate policy statement. If you are a **discretionary customer, advisory investment managed customer or dealing with**

advice customer the appropriate Trust *Client Agreement* incorporates an *investment policy* statement which is acceptable to us. If you do not wish to utilise this *investment policy* statement, you should provide us with an *investment policy* statement. Please note that any *investment policy* statement so provided by the Trustees will only become binding on us once we have given our written acceptance of the *investment policy* statement to the Trustees without qualification or amendment.

9. Dealing in Investec plc and associated company shares

9.1 Transactions may be carried out and advice may be provided on group or associated company shares on your behalf. There are appropriate controls and procedures in place to manage any conflicts of interest. However such transactions and advice will only be provided or given in accordance with general law or regulatory rules.

10. Our charges

- 10.1 Our charges to you will be those published and in effect at the time the charges are incurred. The charges for our services in force at any time are shown in our most recent and relevant rate cards and these are subject to revision from time to time.
- 10.2 In addition to our charges you will be responsible for payment of any taxes, duties, charges, or expenses incurred by us or levied on us by any *Investment Exchange* or other third party (including, without limitation, any buying-in charges or settlement fines). We will levy a separate charge where your *investments* are transferred out of our *nominee company* on termination of our *Agreement* with you (or otherwise) in accordance with section 41 (Termination) of these *Terms and Conditions*.
- 10.3 Under normal circumstances when settlement for overseas transactions is undertaken and currency transactions are required, we reserve the right to pass any foreign currency transaction charges to you. Any currency conversion will be executed at a rate available from the market.
- 10.4 If we have agreed an annual charge or fee with you, it will be shown as a separate item on your account and is calculated periodically, as stated in our most recent and relevant rate card. Fee notes will normally only be issued on request, if agreed between us. The amount of any commissions will normally be shown on the relevant contract note or confirmation.
- 10.5 If we have not agreed an annual charge or fee with you, our charges payable by you pursuant to this section will be due by the date and payable in the manner stated on the contract note, invoice or other notification issued to you in respect of each transaction undertaken.
- 10.6 Any charges or other amounts due to us may be deducted from your portfolio or, at our discretion, shall be payable by you in accordance with any relevant contract note or advice.
- 10.7 We may share dealing charges with our associated companies or other third parties, or receive remuneration from them in respect of transactions carried out on your behalf. Details of such remuneration or sharing arrangements may be set out on the relevant contract note or confirmation (unless the transaction relates to retail *investment* products, in which case details can be made available to you on request).
- 10.8 We may receive commission payments from retail *investment* product providers based on the total level of business placed by us with those retail *investment* product providers over a given period. Details of the aggregate commission figures received from each retail *investment* product provider can also be made available to you on request, although we will not provide you with individual commission receipt figures.
- 10.9 Please note that renewal commission of up to 0.75% per annum of the value of certain securities and/or retail *investment* products may be received by us from certain Unit Trust, OEIC Managers or *investment* companies in respect of business undertaken on your behalf. We may also receive payment or reward from another person in connection with business undertaken for you and/or on your behalf. This would typically be for placing

arrangements or similar *investments*, although not exclusively.

- 10.10 We reserve the right to re-denominate the currency of your portfolio into any other currency, if required to do so by law.
- 10.11 For Discretionary Managed portfolios there could be instances when discussing your account(s) with you where this could be construed as a personal recommendation, which would typically be covered by the adviser charging rules. However, we do not intend to apply any additional charge over and above that agreed for the service provided to you.

11. Your money

- 11.1 Your money will be held as client money in accordance with the *Client Money Rules* which, among other things, require us to hold your money free of lien in a client bank account, segregating your funds from our own at an *Approved Bank*. This means that client money is held as part of a common pool of money, so if there is default, you do not have a claim against a specific sum in a specific account, your claim is against the client money pool in general.
- 11.2 We may hold money on your behalf in a bank account at an *Approved Bank* situated outside the UK, provided that the overseas bank concerned has given us the required trust status acknowledgement described in the *Client Money Rules*. Where your money is held in an *Approved Bank* subject to the law of a jurisdiction other than that of a European Economic Area (EEA) state, your money and the rights relating to your money may be subject to different legal and regulatory requirements than those applying in the UK.
- 11.3 If necessary, we may allow another institution such as an exchange, clearing house, overseas settlement agent or other intermediate broker to hold or control your money, but only if we transfer your money for the purpose of a transaction through or with that person or to meet any obligation that you may have to provide collateral for a transaction. In some cases your money may need to be held in the name of a third party in an overseas jurisdiction, and this may mean your *investments* are pooled with those of other investors. This means that the amount available if there is default may be reduced as a result of other third parties' rights against the account, and in some cases may mean you are not able to recover all of your money. We do not accept responsibility for safe custody obligations or liability in the event of their default.
- 11.4 Please note that the legal and regulatory regime applying to overseas *Approved Banks* and settlement agents will be different from that of the UK and in the event of their default your money may be treated differently from the position, which would apply if the money was held by an *Approved Bank* in the UK.
- 11.5 If it is necessary to hold your money at an overseas bank that is not an *Approved Bank* we will only hold the money with such a bank for as long as is necessary to effect the transaction or series of transactions. In any event we will seek your prior written consent before entering into the transaction or series of transactions.
- 11.6 We reserve the right to pool your *free money* with that of other customers and place such *Client Money* on a term or notice deposit at an *Approved Bank* in accordance with the *Client Money Rules*. Please note that this will not affect any individual customer's claim to receive or withdraw your *free money* on an immediate basis in accordance with section 31 (Giving instructions) of this *Agreement*.
- 11.7 Where you have elected for an offshore account, you are deemed to have authorised us to hold your money in overseas bank accounts. Such accounts may be in Guernsey, Jersey, the Isle of Man, the United States of America or territories within the EEA states.

12. Interest

- 12.1 Payable to you
- 12.1.1 Interest will be paid at the rate and frequency shown in our recent and relevant rate card for the service agreed between us, subject to 12.1.3 below. Interest will be paid on a gross pooled basis (unless where we have previously specifically agreed a designated cash management service with you).

12.1.2 Where we manage customers' cash funds to obtain favourable deposit rates, we may retain a proportion of the interest earned on your funds or receive interest or fees direct from the institution(s) holding the funds.

12.1.3 Our policy on payment of interest is to pay you interest at prevailing rates on all *free money*, which we hold with effect from the date of receipt to the date on which the debit is made in your favour. We will not pay interest on any other balances held with us. You should be aware that in some cases interest may be collected, until due for distribution, into an account with an associated company, Investec Bank (UK) Limited. Apart from this, no client money will be held in a group company affiliate bank, unless by special arrangement with you. Please note that we reserve the right not to credit interest into your account when the total interest earned in that period is less than £1.

12.1.4 For foreign currency balances held as *free money*, we will pay interest at a rate of 0.5% below the rate that we receive.

12.1.5 We will pay interest to you should we fail to pay you on a timely basis at a rate equivalent to that which you receive on your *free money* in accordance with section 12.1.1 above.

12.2 Payable to us

12.2.1 If you default in paying any account when it is due, we reserve the right to charge interest at 5% p.a. above the base rate of Lloyds TSB plc. The interest will accrue daily and will be charged to your account when the debt has been discharged. Please note that interest is payable on demand and will accrue after, as well as before, judgement.

12.2.2 To avoid undue administration we may decide not to charge interest if less than £5 per month.

13. Settlement of transactions

- 13.1 All payments to be made by you shall be made in the currency of the obligation in immediately available funds on the due date (advised to you in accordance with this section) without set-off or counter claim and free from and without deduction of any taxes, levies, withholdings or any other deductions of any nature. Foreign currency transactions, carried out on your behalf will be carried out as per section 10.3 (Our Charges). You will not withdraw any *investments* or money from your portfolio or grant any charge, lien or encumbrance over them if such money or *investments* are to be delivered or paid in settlement of any transaction and, in any event, will not do so without prior notification to us.
- 13.2 You will be responsible for ensuring that all money due to us is paid and all documents are delivered to us in good order so as to permit timely settlement of any transaction effected with you or on your behalf. The due date for settlement will be stated on the contract note, invoice or other notification, which will also show our charges for the transaction, which will be due for payment on that date of settlement.
- 13.3 Cheques should be made payable to Investec Wealth & Investment and sent along with any documents for settlement to the following address:
Investec Wealth & Investment Settlements Department, The Plaza, 100 Old Hall Street, Liverpool, L3 9AB.
- If you wish to remit proceeds for settlement direct to our bank account, these details are available on request from your Investment Manager.

14. Borrowing money for you

- 14.1 We will not, without your prior consent, commit you to any borrowings or enter into transactions on your behalf which we know will result in you having to borrow (save for the circumstances listed in section 22 (Rights issues, takeovers, scrip dividends and other entitlements)). We may, however, be able to arrange loan facilities where appropriate, for which details and the relevant *Agreement* can be obtained from us and in the event such borrowing does occur we will provide you the relevant *Agreement* for your review and signing. Please note that such facilities may be extended by one of our associated companies or another party authorised under the Act on our behalf, and we may receive remuneration from such party or parties for arranging this for you.

DFM Terms and Conditions

15. Foreign currency & securities

- 15.1 If there is any payment obligation owed by you under this *Agreement* in a foreign currency then should any amount in the foreign currency received by us (when converted into the currency used in the UK at the relevant rate of exchange on the relevant date) fall short of the amount due under this *Agreement*, you will, as a separate and independent obligation, indemnify us and hold us harmless against the amount of such shortfall.
- 15.2 Income from foreign securities may be subject to taxation in the country of origin. This taxation will not be recovered by us even if you are in a position to recover tax from the local tax authorities. Overseas residents not subject to tax will only receive gross payments if all the necessary documents have been supplied by you and lodged with us.

16. Portfolio valuations

- 16.1 In the case of **discretionary and advisory investment managed customers** only, we will send you every six months a valuation of your *investments*, which incorporates a schedule setting out the various transactions which we have entered into on your behalf. You may also choose to receive a valuation more or less than six monthly. Please indicate in the *Client Agreement* the date on which you would like to receive your first valuation and the frequency thereafter. (Please note that under the FSA's *Conduct of Business Rules*, we are required to forward you a valuation of your *investments* at least annually). If you elect for valuations to be sent directly to your *financial adviser*, your *financial adviser* will be responsible for forwarding such valuations to you in a timely manner.
- 16.2 In the case of **dealing with advice customers and execution only customers**, we will, if agreed specifically with you, send a valuation which can include on request a schedule setting out the various transactions which you have carried out in the period.
- 16.3 In all cases, each valuation will comprise the number of units of each *investment* held in the portfolio, the aggregate of their initial costs (when known) and the aggregate of their value as at the date of the valuation.
- 16.4 Securities will be valued at the close of business on the valuation date. If the valuation date falls on a non-*Business Day*, prices quoted will be those as at the close of business on the last *Business Day* before the valuation date. UK quoted securities are valued at the mid-market price or last traded price available to us on the relevant Stock Exchange. Overseas securities are valued at the mid-market price or last traded price available to us on the relevant Stock Exchange. Unit Trusts are valued at the middle of the prices prevailing on the valuation date.
- 16.5 Please be aware that there are some securities which may be shown in your portfolio at an indicative price. These securities will tend to be very illiquid securities for which there is either no market or the market is very limited.
- 16.6 Additionally, valuations may contain holdings at a nil price – these will typically be unquoted securities for which we are unable to obtain a price.
- 16.7 As part of our services to you, we may provide 'internal' or 'ad-hoc' valuations to assist you and/or your *financial adviser*. Please note however that such valuations are working documents only and are designed primarily to assist us in administering your portfolio. They have not been subject to our quality control procedures and also many of the features of your regular report (e.g. statement of custodianship) are not present. They should be considered as indicative and used only in conjunction with advice (if applicable) received from us.
- 16.8 We shall not be liable for any loss of opportunity or reduction in the value of your portfolio due to market fluctuations.

17. Benchmarking

- 17.1 The purpose of a benchmark is to provide customers with a reference point for their portfolio. It is not a guarantee that your portfolio will perform in line with the chosen benchmark or necessarily follow its distribution. The benchmark is designed only to assist you to assess the performance of your portfolio. It does not mean that your portfolio will be based on the *investments* which make up the indices within the benchmark or will necessarily follow their asset allocation or performance.

- 17.2 Unless otherwise agreed in writing with your Investment Manager, we will use the appropriate Association of Private Client Investment Managers and Stockbrokers (APC/MS) benchmark for performance management purposes.

18. Custody of your investments

- 18.1 For all customers who use our nominee services:
- 18.1.1 *Investments* held by us for you will, where possible (in the case of most UK securities), be registered in the name of our *nominee company*. The title to your *investments* will be registered or recorded in the name of our *nominee company* through which you will retain beneficial ownership. You or your *financial adviser* may instruct us in writing to register, record or hold your *investments* in the name of some other person (which must not be us or an affiliate of ours) whom you specify. However, if you do so instruct us, the consequences of registration, recording or holding of *investments* carried out in accordance with your instructions are entirely at your own risk.
- 18.1.2 Our *nominee company* is a wholly-owned subsidiary for whom we accept responsibility for safe custody obligations. Holdings may be in certificated or other physical form or held in a dematerialised form within the CREST settlement system on a pooled basis. Unless you instruct us to hold your *investments* in your own name (in which case sponsored membership in CREST is required and a separate *Agreement* is available on request for this purpose), holdings will be held by our *nominee company* on a pooled basis. Such designation or CREST sponsored membership may be subject to a separate charge which will be notified to you should you request such services.
- 18.1.3 Dividends and interest will be paid quarterly by BACS and you will receive a schedule showing the individual amounts. Consolidated tax vouchers are prepared for your tax returns. Dividends on overseas *investments* will normally be converted into sterling on receipt and paid to your income account for quarterly distribution. Such income accounts (including accumulated dividends) will not earn interest.
- 18.1.4 In some cases your *investments* may need to be held in the name of a third party in an overseas jurisdiction, and this may mean your *investments* are pooled with those of other investors. Pooling your *investments* with those of other investors means that your individual entitlement may not be identifiable by separate certificates, physical documents or entries on the register. In the event of a default of the *custodian* resulting in an irreconcilable shortfall, you may not receive your full entitlement and may share in that shortfall pro rata. We accept responsibility for the acts of our *nominee company* to the same extent as for our own acts, including, for the avoidance of doubt, losses arising from fraud or negligence.
- 18.1.5 Where it is not possible to use our own *nominee company* and safe custody services (for example with non-UK securities), your *investments* may be registered, recorded or held in a trust account on your behalf in the name of one or more eligible custodians or their nominees. However such *investments* will not be held with any third party in another country which does not regulate the safekeeping of financial instruments unless the nature of the financial instrument requires it or where a professional client requests us to do so in writing. Such *investments* will be held on a pooled basis, but may be held on a designated basis if dictated by overseas jurisdictions. Furthermore, such holdings will be registered in the name of the company, and not that of our *nominee company*. This includes clearance systems and overseas agents for whom we are required to undertake continuing risk assessments but for whom we do not accept responsibility for safe custody obligations or liability in the event of their default or in the event of their insolvency, and either case this may lead to the loss of your *investments*. *Investments*

belonging to you which are held overseas may be subject to different settlement, legal and regulatory requirements than those applying in the UK as well as different practices for identifying individual *investments*. In the event of the insolvency of that person, your *investments* may be treated differently from the manner in which it would be treated if it had been passed to an intermediate broker, settlement agent, custodian or counterparty within the UK.

- 18.1.6 We will confirm to you your *investments* held by us or to our order at least once a year. This confirmation may form part of your portfolio valuation.
- 18.1.7 Please note that any bearer *investments* may not be held in our safe custody, but by a third party. Such third party will be an eligible *custodian* in accordance with the rules of the FSA. We and our *nominee company* do not accept responsibility, in the absence of our own fraud, negligence or wilful default, for the safe custody obligations of any third party, but prudence will be exercised in the selection of such agents.
- 18.1.8 Some companies provide benefits to shareholders relating to the nature of their business. These benefits will not be available to you if your *investments* are registered in the name of our *nominee company*. Should you wish to receive these benefits, we may be able to furnish you with a letter confirming your nominee holding, but we would recommend that if you are holding shares purely for the benefit of the concession they should be registered in your own name.
- 18.1.9 At your request and by prior written arrangement between you, us and your bankers, your *investments* may be used as collateral for loans or overdrafts (this is not the case for any ISA *investments*).
- 18.1.10 If you so elect, we will arrange for you to receive within a reasonable timeframe following their publication a copy of the Annual Report and Accounts issued by any UK quoted company provided that they are held within your portfolio. We will also arrange for you, upon reasonable notice of a request from you, for you to be able to attend UK shareholders', securities holders' or unit holders' meetings, to vote. This service will be subject to an administration charge as detailed in the most recent and relevant rate card for the service agreed between us.
- 18.1.11 You should be aware that there are a number of administration charges which we reserve the right to make for undertaking certain arrangements on your behalf. Such charges are detailed in our most recent and relevant rate card for the service agreed between us.
- 18.1.12 You should be aware that in appropriate circumstances *investments* held by us in safe custody may nonetheless be sold by us in accordance with section 24 (Power to sell or close out) of these *Terms and Conditions*.
- 18.1.13 We will not, without your prior express consent, use your *investments* for our own account or the account of another client.
- 18.1.14 To avoid undue administration, where we are unable to pay interest, dividends or income to you by BACS and are required to do so by cheque we will not be required to do so where the amount payable to you is less than £2.

19. United States (US) withholding tax regime and the European savings tax directive

- 19.1 Holders of US Assets:
You or your *financial adviser* will provide us with appropriate client documentation in line with US regulations. We will endeavour to collect income and sale proceeds under the appropriate reduced rate of withholding tax. In the event that appropriate client documentation is not provided as and when required, we will sell stock within one month of purchase.
- 19.2 European Savings Tax Directive (non UK clients in certain Prescribed Territories):

Where requested, you or your *financial adviser* will provide us with your Tax Identification Number (TIN) (if applicable), or other relevant information together with documentary evidence of such information (for example, certified copy of passport and tax notification) so that we are able to meet our reporting requirements under the relevant European legislation.

20. Unsolicited calls

20.1 It is envisaged that we may wish from time to time to visit or telephone you to discuss *investments* without your express invitation. Please indicate in the relevant part of the *Client Agreement* whether this is acceptable to you. However, we will not make unsolicited calls to you before 8:00 am or after 9:00 pm.

21. Customer protection

21.1 We are covered by the Financial Services Compensation Scheme (FSCS). You may be entitled to compensation from the scheme if we cannot meet our obligations. This depends on the type of business and the circumstance of this claim. Most types of *investment* business are covered for the first £50,000. Further information about compensation scheme arrangements is available from the FSCS. Where appropriate you will be informed of alternative arrangements where applicable.

22. Rights issues, takeovers, scrip dividends and other entitlements

22.1 In relation to *investments* held in the name of our *nominee company* only:

22.1.1 For discretionary customers:

we will proceed with any one of the following without prior reference to you and in such manner as we determine:

- (i) exercise any conversion, subscription or voting rights (only when required to do so) regarding your holdings;
- (ii) proceed in takeover situations, other offers or capital reorganisations concerning your holdings;
- (iii) take dividends in cash, unless otherwise instructed by you.

Please note that we reserve the right to act, or to refrain from acting on *investments* which were purchased by you on an execution only basis and we will endeavour to contact you accordingly for your decision.

22.1.2 For all other customers:

we will endeavour to obtain your written instructions before proceeding with any one of the following:

- (i) electing to take up a scrip dividend on your behalf;
- (ii) exercising any conversion, subscription or voting rights (only when required to do so) regarding your holdings;
- (iii) proceed in takeover situations, other offers or capital reorganisations concerning your holdings.

However, when after exercising reasonable endeavours we have been unable to obtain your instructions, we reserve the right to act or refrain from acting on your behalf in relation to corporate actions in such manner as we may determine to be in your best interests.

22.2 For all customers, where *investments* are held by our *nominee company*, we will not be responsible for passing to you information received from companies or their registrars relating to voting, shareholder benefits or corporate actions. Any such instructions must be received by our *nominee company* within a reasonable period, but not less than four *Business Days* prior to the date of the meeting to which the vote applies.

22.3 Where *investments* are held in our *nominee company* on a pooled basis, corporate activity may result in fractions of shares or units being issued. These fractions will be sold as soon as practicable, and the proceeds (after dealing costs) will be retained by us, unless the individual entitlement exceeds £10, in which case it will be distributed to you.

22.4 In respect of *investments* which we are holding on your behalf in safe custody which are registered in your own name (not in our *nominee company*), we shall not be responsible for taking action for any corporate action.

22.5 Instructions to us may be given by telephone, in writing or by fax, but we reserve the right to accept responsibility for acting only upon those instructions received by us in writing.

22.6 You should be aware that in certain circumstances, we may not be able to act in conversions in your best interests or in accordance with your preferences. This will always be due to factors outside our control. Typically, company registrars may treat our *nominee company* as being one holding and therefore offer us one conversion option across all client accounts.

23. Right to retain your funds

23.1 We shall be entitled at any time to retain or make deductions from, or set-off amounts or credit balances which we owe to you, (including, without limitation, the proceeds of sale or closing-out transaction or any other account or sub-account which you have with us under this *Agreement*) in order to meet any liabilities which you may have incurred to us or which we may have incurred on your behalf under this *Agreement* including, for example:

- (a) sums to be paid in settlement of transactions, application monies and calls due for new issues which:
 - (i) for **discretionary customers**, we have applied for or taken up on your behalf, or
 - (ii) for all other customers, you have asked us to apply for or take up on your behalf;
- (b) dividend claims which we have made from you;
- (c) settlement of any monies due as a result of any corporate actions in which you have participated (or we have participated in on your behalf in accordance with section 22 (Rights Issues, Takeovers, Scrip Dividends and other entitlements));
- (d) settlement of our fees, commissions or charges or any other amounts referred to in section 10 (Our charges) or any liabilities or costs incurred when exercising rights under section 24 (Power to Sell or Close Out) or section 41 (Termination) or any other relevant provision of this *Agreement*;
- (e) any interest payable to us pursuant to the terms of the *Agreement*;
- (f) payments payable to us pursuant to any indemnity given by you whether pursuant to the terms of this *Agreement* or otherwise; and
- (g) any necessary taxation, rights, claims or deductions.

23.2 If after a period of six years having elapsed since the last movement on your *Client Money* account (notwithstanding interest, charges or similar items) and we are unable to contact you, you acknowledge that we may cease to treat any balance as *Client Money* having taken reasonable steps to trace you.

23.3 In this section references to "we" or "us" include references to our associated companies. You agree that any obligations or liabilities owed to an associated company and accepted by you or arising in relation to transactions executed by us under this *Agreement* shall be enforceable by us on its behalf.

24. Power to sell or close out

24.1 If, at any time, we have any reason to believe that you may be unable or unwilling to meet any liabilities which you have incurred to us or which we may have incurred on your behalf or to comply with any other obligations under this *Agreement*, including any of those matters detailed in section 41 (Termination), we shall be entitled (and are irrevocably authorised by you) to take all or any of the following actions having given at least four *Business Days* prior oral or written notice to you or your *financial adviser*:

- (a) sell *investments* bought on your behalf but for which you have not paid on or before the relevant settlement day;

- (b) close open sold positions (by buying-in *investments* or otherwise) in the event that the relevant securities have not been delivered by you on or before the relevant settlement day;
- (c) sell any securities held or registered by us or in our *nominee company* or another *custodian* to our order or acquired on your behalf; and
- (d) take any other steps (whether or not similar to the above) we may consider to be necessary to meet any obligations which you have to comply with under this *Agreement* or otherwise to protect our position.

24.2 If after any of the actions specified above have been taken, there is a positive balance in your favour we shall (after withholding such amount as we in our absolute discretion consider appropriate in respect of future liabilities (which will be disclosed to you)) either hold on account or pay to you such balance as soon as reasonably practicable and supply you with a statement.

24.3 In relation to any assets held by us on your behalf, you warrant and undertake to us that:

- (a) all such assets are and at all times shall remain free from any restrictions on transfer;
- (b) all such assets are and at all times shall remain free from any third party lien, charge, pledge or encumbrance, claim, title or other interest (unless otherwise agreed in writing between us in accordance with section 18.1.9 (collateralised loans));
- (c) no mortgage or other fixed security or floating charge or other security interest in such assets shall be created, granted, extended or permitted to subsist without our prior written consent (which consent may be subject to any conditions specified by us);
- (d) no person other than you has any rights or interest in any such assets; and
- (e) unless you have notified us in writing that you are acting as *Trustee* or agent in respect of any particular *investment* or asset (and in which case you warrant and undertake to us on behalf of the person(s) for whom you are acting), that you are authorised with full power and capacity to instruct us.

25. Short positions

25.1 A short position is one where you contract to sell *investments* which you either do not own, do not have authority to sell or you cannot deliver to the market on a timely basis. We will not sell *investments* on your behalf if we reasonably believe that a sale may result in you having a short position, and you should not knowingly instruct us to do so. We reserve the right to buy stock to cover any obligation arising from a short position without any prior reference to you, and you agree that we may recover from you any expenses incurred by us from doing so (this section does not apply for transactions carried out under the Options Agreement).

26. Conflicts of interest

26.1 Please refer to our conflicts of interest policy contained within Annex 1 of these terms and conditions for full details of our policy on potential conflicts.

27. Advice and research

27.1 Any *market information*, advice and research supplied is prepared from sources which are believed to be reliable and is provided only for your personal use. We are, however, unable to check the accuracy of all information supplied to or obtained by us and accordingly cannot accept liability for any direct or consequential loss arising from the use of our advice and research. You may not copy, distribute, or redistribute *market information* or sell, resell, retransmit or otherwise make *market information* available to third parties and we will not be liable for any loss caused by the misuse of *market information*. We may already have positions in, or options on, the *investments* mentioned therein or may buy, sell or offer to buy or sell such *investments* from time to time.

28. Market abuse

28.1 You agree that you will not, by deliberate or negligent act or omission, commit market abuse. This means distorting, misleading or taking unfair advantage of the market by use of private information. This may include, for example, placing multiple instructions simultaneously in the same *investment* with a view to dealing in a larger amount than the *Normal Market Size*. Market abuse is an offence for which you can be fined and/or ordered to pay unlimited restitution.

29. Aggregation and execution of orders

29.1 Unless we accept specific instructions from you otherwise in relation to a particular order, we may aggregate your order with our own orders, orders of associated companies and persons connected with us and orders of other customers without further reference or authority from you. By aggregating your order with those of other customers we must reasonably believe that this is in the overall best interests of our customers and it is unlikely such aggregation will work to the disadvantage of you when we aggregate your order. However, aggregation may operate on some occasions to your disadvantage.

29.2 We will normally execute orders in the order in which they are received by us as soon as reasonably practicable after receipt. Unless you tell us otherwise you agree that if we are unable to execute your order in full immediately we may execute our own orders or the orders of other customers whilst seeking to complete the execution of your order.

29.3 Under the FSA's *Conduct of Business Rules* we are bound to execute your order at the best available price in the relevant market at the time of the transaction unless there are reasonable grounds for believing that it would not be in your best interests to do so. However, you should be aware that the price at which we carry out a transaction for you may be less advantageous if we deal on non-standard terms, for example, for extended settlement.

29.4 Please be aware that the markets that we are prepared to deal on may be limited by our ability to settle or hold *investments* within those jurisdictions.

29.5 We may accept an order at a price limit. However, if that limit cannot be met, you will be advised as soon as possible but the order will not be retained. All limit orders will be for that *business day* only. If, in exceptional circumstances, we agree to retain a limit order for more than one day, you provide us with your prior express consent not to publish those limit orders.

29.6 *W&I* has a formal best execution policy, which is contained in Annex 2 of these terms and conditions. The best execution policy forms part of this *Agreement*. The best execution policy highlights instances where, in your best interests, we may deal off-market. By signing the agreement you provide us with your prior express consent to deal off-market.

30. Types of investment and risks you need to consider

30.1 In addition to section 6 (Classification of Investment Objective and Risk), the services provided to you under this *Agreement* may have additional risks related to their special features for the operations to be executed or their price may depend on or fluctuate in financial markets outside our control. Past performance is no indication of future performance and prices may go down as well as up.

30.2 The following summary is general in nature and not exhaustive in its coverage. You may or may not deal in some of the instruments listed below.

30.2.1 Equities

Equities are units of ownership in individual companies. By investing in equities clients will participate in the economic success or failure of the company. As a consequence a company's shares may fall as well as rise. Volatility in equities markets can change quickly and does not necessarily follow historical trends. If a company becomes insolvent the value of its equities will also fall, potentially to the point where it has no value at all. Long-term returns from equities will come from a combination of capital growth and dividend payments.

30.2.2 Equity Funds

- (a) The risks of investing directly in equities may be spread by investing in diversified *investment* vehicles such as equity funds. These come in a wide variety of forms which follow a variety of *investment* strategies and are also subject to very different styles and qualities of regulation. It is also possible that the manager of fund may change at any time.
- (b) The pricing of open-ended funds will be calculated according to the net asset value. Large funds may become too diverse to outperform and behave similarly to their underlying indices, while the performance of smaller funds may fluctuate with flows of money in and out of the fund.
- (c) There are additional risks with *investment* trusts and other closed-ended funds. The share prices of these should not be expected to reflect the exact net asset value but should be expected to trade at a discount or premium to this dependent upon supply and demand and other factors. This premium/discount will move on a day to day basis, meaning that you may sell at a loss even if the value of the assets has risen or that you may be required to pay a premium to net assets when purchasing shares
- (d) *Investment* trusts may utilize gearing (i.e. borrowing) to enhance performance. This may also result in any or all of the following occurring:
 - (i) Movements in the price of the investment trust may become more volatile than the movements in the price of the underlying *investments*;
 - (ii) The *investment* trust could be subject to sudden and large falls in value;
 - (iii) The return of a significantly reduced amount, or in a worst case none of your capital, if there is a sufficiently large fall in the value of the *investment*.

30.2.3 Bonds and fixed-income securities

- (a) Bonds tend to provide a lower but more predictable overall return than equities. The interest payable on these may be fixed or variable, the former providing a greater surety of return. Bonds are issued by both governments (sovereign debt) and by companies (corporate debt).
- (b) The return from a fixed income bond is dependent upon the rate of interest paid and the price paid for that bond.
- (c) The market prices of bonds with different credit ratings may behave in different ways as the assessment of the economic cycle changes.
- (d) The most significant determinants of the value of a fixed interest bond in the market are the financial position of the issuer and changes in the interest rate environment. In the shorter term, the market price of fixed income stocks will change in accordance with the market's anticipation of moves in interest base rates and the likely future course of inflation.

30.2.4 Index Linked Securities

We may also invest from time to time into index linked stocks. Both the interest paid by these stocks and the sum received on redemption are linked to inflation, unlike conventional fixed income stocks where both are fixed.

30.2.5 Bond Funds

We may choose to invest into bond funds, rather than into specific fixed income stocks. This may be for a number of reasons including diversification, income objectives and a desire to invest into bonds denominated in a currency other than sterling. Both the value of the units in a bond fund and the income received from it may fluctuate.

30.2.6 Foreign Currencies

If you deal in *investments* priced in foreign currencies (foreign currency denominated

investments) this involves you entering into a related foreign exchange transaction in connection with the purchase or sale of the *investment* concerned. This involves the risk that a change in the rates of exchange between currencies may cause your *investment*, or the income from it, to go down or up beyond that of expected market fluctuations.

30.2.7 Smaller Companies

We may also advise on investments in or execute transactions in smaller companies, including penny shares. There is an extra risk of losing money when shares are bought in smaller companies including penny shares. There is a big difference between the buying price and the selling price of these shares. If they have to be sold immediately, you may get back much less than you paid for them. The price may change quickly and it may go down as well as up.

30.2.8 Non-Readily Realisable Investments

- (a) we may enter into transactions on your behalf in *investments* that are not readily realisable. These are *investments* in which the market is limited or could become so; they can be difficult to deal in or obtain reliable information about their value. Please advise us if you do not wish us to deal for you or advise you in respect of such *investments*.
- (b) you should also be aware that there are certain *investments* which either do not have a regular dealing date, only deal on certain dates (for example, quarterly) or may have a minimum holding period. Please advise us if you do not wish us to deal for you or advise you in respect of such *investments*.
- (c) we may recommend a transaction or may deal for you in circumstances where the transaction or deal is not regulated by the rules of any stock exchange or *Investment* Exchange. Please inform us if you do not wish us to recommend or enter into such transactions for you.

30.2.9 Hedge Funds

- (a) Hedge funds are *investments* which employ a wide variety of trading strategies in order to produce returns. The strategies vary enormously from fund to fund and may include borrowing money in order to increase the gearing of *investment*, the use of derivatives to either increase or reduce risk and the short selling of securities. As a consequence the overall risk of each fund varies considerably.
- (b) In addition to risks arising from the strategies of hedge funds there are also risks that arise from the regulatory environment in which the fund is based. Many hedge funds are domiciled in overseas locations where the style and quality of regulation differs from that in the UK. As a consequence the funds may be subject to different disclosure requirements. This may result in funds being able to make changes in their strategy that have considerable impact upon the investor without necessarily disclosing them publicly.
- (c) Funds of hedge funds will usually have greater liquidity than their underlying holdings. However, management fees may be high and include a charge for performance above a predetermined level. These high charges may reduce reported performance and may lead the managers to seek higher returns than might otherwise have been expected. A large seller may also distort the price to the detriment of other unit holders.
- (d) Since a fund of funds buys many different funds which themselves invest in many different securities, it is possible for the fund of funds to own the same stock through several different funds and it can be difficult to keep track of the overall underlying holdings.

- (e) The fund's management team is often small and many hedge funds only offer infrequent liquidity, monthly being typical but six month lock-ups or even annual liquidity are not unusual.
- (f) The pricing of closed-ended funds of hedge funds is subject to market forces and may be at a premium or discount to the underlying net asset value. It is therefore possible that you realise a loss on the *investment* even though the underlying assets have risen or that smaller falls in net asset value are magnified into substantial falls in share prices.

30.2.10 Private Equity and Private Equity Funds

Private equity funds hold *investments* that are not quoted on recognised exchanges. The valuation of these holdings may be highly subjective and may not reflect the price at which the *investment* is ultimately sold. Potential returns are dependent upon prices that have to be paid for acquisitions and those that are achievable when selling. There may be times when it is not possible for funds to sell *investments* at prices they believe to be acceptable. Private equity funds may also utilise high levels of gearing, which may increase the volatility of returns and may increase the risk of failure.

30.2.11 Commercial Property

If we invest in commercial property it will only be through funds or quoted equities. Closed-ended property funds may trade at a significant discount to underlying asset value, meaning that you may sell at a loss even if the value of the underlying assets rises. Open-ended funds are likely to underperform a rising market as they may receive a steady flow of cash for *investment* at ever high values, while the illiquidity of property means that funds may refuse redemptions for extended periods while cash is raised. This will mean that you may be locked into falling prices for many months.

30.2.12 Commodities and Precious Metals

Returns from commodities (including precious metals), either through funds or direct *investment*, should be expected to be highly volatile. Commodities pay no income and are thus completely subject to patterns of buying and selling in the market. Factors that may influence these patterns are the global economic cycle, production patterns, shifts in the futures markets, currency movements, extreme weather and the performance of other assets, including equities and bonds.

30.2.13 Structured Products

- (a) Structured products is a general term to describe *investments* which provide exposure to a wide range of asset classes through a combination of financial instruments (typically including zero coupon bonds and/or derivatives) brought together to provide a single *investment* product. The nature of the financial instruments included in a structured product will depend upon the type of exposure being sought by investors.
 - (b) A structured product should be considered as a term *investment*, where the expected returns will occur at or shortly before maturity. In the time before then, the price of the product may not reflect changes in the underlying assets and in certain cases will initially be more sensitive to changes in the price of the issuer's bonds. The market price of the structure will also be affected by rises and falls in volatility and by market interest rates.
 - (c) One of the main risks when purchasing a structured product is the credit risk of the issuer. A zero coupon bond typically makes up much of the asset value of certain structured products and the price of this bond will vary according to the issuers' credit rating and market perceptions of its creditworthiness. The nature of the zero coupon bond may also mean that holders of capital guaranteed products may face losses if forced to sell before maturity of the structure and may be locked into low returns for the life of the product if the price of the underlying asset fails to perform as anticipated.
 - (d) Holders of structured products may also lose if the issuer of the derivatives in the product were to default. The derivatives that make up a structure are very rarely actually purchased on the exchange. As a result, if the issuing counterparty were to default then the derivatives involved in the structure would effectively be written off and it is likely that the holder of the product would be considered to have no rights to these derivatives. Certain structured products are dependent upon the performance of an index or indices, so that a fall in the index or any of the indices below a pre-determined level may result in irrecoverable losses.
 - (e) Buying structured products in the secondary market may also create a number of additional risks. Capital protection, where applicable, is only applicable to the price at launch and secondary purchases may therefore be liable to large potential losses. Certain products may no longer qualify for inclusion in ISA accounts.
 - (f) The taxation of structured products may be yet to be determined and it is possible that products that we believe to be liable to capital gains tax could in future be taxed as income or subject to further change.
 - (g) You should be aware that the real value of any capital guarantee may be reduced by inflation.
 - (h) Structured products are not suitable for investors with no capacity for loss.
- #### 30.2.14 Structured Capital at Risk Products (SCARP)
- (a) SCARPs are typically products, other than a derivative, which provide an agreed level of income or growth over a specified *investment* period. We may purchase (for discretionary customers) or recommend/advise (for advisory *investment* managed customers and dealing with advice customers) on SCARP products with the following characteristics:
 - (i) those linked to stock market indices on the UK or overseas;
 - (ii) those linked to the performance of a share or a collection of shares;
 - (iii) those offering a specified level of income over a fixed period;
 - (iv) those offering growth over a period depending on the performance of an index or other factor;
 - (v) those that use gearing (borrowing);
 - (vi) those with some element of capital protection;
 - (vii) those without any capital protection and where all your capital could be at risk.
 - (b) for discretionary customers, the following will be taken into account before investing in SCARPs. For all other customers, before investing, you should be aware that:
 - (i) there is a range of outcomes in respect of the return of initial capital invested;
 - (ii) the return of the initial capital invested at the end of the *investment* period is not guaranteed and you may get back less than you originally invested;
 - (iii) the amount of initial capital to be repaid may be geared. This means that a small percentage fall in the related index may result in a larger reduction in the amount of capital repaid to you;
 - (iv) any maximum benefit advertised may only be available after a set period. Where this applies, the product

provider documentation will clearly state the length of such period. If we are acting for you on a discretionary basis, we will consider these factors before purchasing the *investment*;

- (v) redeeming such a product early may result in you suffering redemption penalties and receiving a poor return;
- (vi) the initial capital invested by the product *provider* may be placed into high risk *investments*, such as non-investment grade bonds or invested with organisations that may become insolvent with the resulting loss of some or all of your *investments*;
- (vii) the rate of income or growth advertised to you may depend on specific conditions being met. Where this applies the product *provider* document will clearly state what those conditions are. If we are acting for you on a discretionary basis, we will consider these factors before purchasing the *investment*;
- (viii) you should not invest in structured capital at risk products unless you are prepared to lose some or all of the money that you have invested;
- (ix) you should satisfy yourself that the structured capital at risk product is suitable for you in the light of your circumstances and financial position.

30.2.15 Permanent Interest Bearing Securities (PIBS)

- (a) PIBS are building society shares, which are listed and traded on the London Stock Exchange. They are irredeemable shares, which pay a fixed rate of interest net of basic rate tax.
- (b) PIBS offer no certainty as to capital, the society being under no obligation to repay the principal.
- (c) the price at which your PIBS holding is sold may be less than the price paid.
- (d) the secondary retail market in PIBS is small, with liquidity being uncertain.
- (e) should the issuing society be wound up, PIBS holders rank behind all the other lenders, depositors and other shareholders for repayment.
- (f) PIBS holders do not qualify for compensation under the Building Society Investor Protection Fund.
- (g) interest payments will not be made by the society if:
 - (i) interest remains unpaid on any other of the society's deposits or shares;
 - (ii) the Board of the society decides that payment of PIBS interest would lead to failure of the society or would damage its business.
- (h) unpaid interest is non-cumulative – if the society fails to make an interest payment for one of the above reasons, it will be under no obligation to pay that sum at a future date.

30.2.16 Stocklending

We will not normally engage in stock lending activity. If you wish us to engage in stock lending activities, we may agree to do so by prior written agreement.

30.2.17 Stabilisation

- (a) we may deal for you in *investments* that may have been the subject of stabilisation.
- (b) stabilisation is a price-supporting process that may take place in the context of new issues. The effect of stabilisation can be to make a market price of the new issue temporarily higher than it would otherwise be. The market price of investments of the same class already in issue, and of other *investments* whose price affect the price of the new issue, may also be affected.
- (c) this process is undertaken in order to ensure that the issue of *investments* is

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introduced to the market in an orderly fashion, and that the issue price and/or the price of associated *investments* is not artificially depressed because of the increase in supply caused by the new issue.

- (d) stabilisation may only take place for a limited period, and there are limits on the price at which shares, warrants and depository receipts may be stabilised (although there are no limits in respect of loan stock or bonds).

31. Giving instructions

- 31.1 We will accept your written or oral instructions (including, but not limited to, instructions received from you by fax) as long as we are reasonably satisfied that they are genuine instructions from you. For security purposes, you acknowledge that we have the right to delay carrying out any instructions from you whilst we verify that they are genuine. Except for **discretionary** clients that have opted-out of receiving contract notes we will acknowledge your instruction formally by issuing a contract note or confirmation to you and/or your *financial adviser*. The contract note or confirmation will supersede any oral acknowledgement of your order given at the time and you should contact us immediately if the contract note or confirmation does not accord with your instructions. In the absence of manifest error, contract notes or confirmations shall be conclusive and binding on you. We will provide a contract note or confirmation to you following each transaction or series of transactions. Please note that once an order or instruction has been accepted for immediate execution by us, it may only be amended or withdrawn with our agreement.
- 31.2 We shall not normally accept instructions given by e-mail. Where instructions are sent to us by e-mail, we give no guarantee as to the timeliness or execution of those instructions, including cases, for example, where the addressee at our offices is not available or is away or our e-mail systems are unavailable. You should not assume that any e-mail has been received by us and/or actioned unless you received either an e-mail and/or a telephone call acknowledging our receipt. You should also be aware that e-mail is not a secure medium and therefore any instructions received by us purporting to be from you by e-mail will be actioned but no liability will be accepted for any false instructions or lateness whatsoever. We shall have no obligation to verify the authenticity of any e-mail sent to us.
- 31.3 We will be entitled but not bound to act on a request from you to effect a transaction in accordance with these *Terms and Conditions*. If we decline to accept instructions from you, we will notify you but we will not be obliged to give you a reason.
- 31.4 Where requests for changes in respect of bank details or requests for third party payments are made, we will require that request in writing.

32. Certificates

- 32.1 If your *investments* are not registered in the name of our *nominee company*, we will take all reasonable care to ensure the despatch of your certificates in accordance with or pursuant to your instructions, but all certificates are despatched at your own risk.

33. Cancellation rights

- 33.1 If you enter into this *Agreement* for services by means of *distance communication* you may cancel this *Agreement* within 14 days of commencement (or 30 days for certain life insurance and pension products, as notified to you at that time) by serving notice upon us by post. However, cancellation rights will not apply if:
- the price of the service or services provided during the cancellation period depends on fluctuations in the financial market outside our control;
 - the performance of the distance contract has been fully completed by both parties at your request before you exercise your right to cancel; or
 - we have an initial *service Agreement* with you and the contract is in relation to a successive operation or separate operation of the same nature under that agreement.

- 33.2 Upon notice of cancellation, we shall pay to you any sum which you have paid to or for a benefit in connection with services under this *Agreement*, except fees we shall retain for any services we have already provided prior to cancellation. Where a right of cancellation is exercised, any amounts paid will be reimbursed, subject to a deduction of any dealing cost, and, if applicable, the amount by which time the value of your *investment* has fallen at the time written notification of your wish to cancel is received by us in accordance with section 42 of this *Agreement* (Notices) (known as a shortfall and will be calculated under the *FSA Rules*), and we have had proper time to effect such request subject to section 29 of this *Agreement* (Aggregation and Execution of orders). If you choose to register your *investments* in a form other than our *nominee company*, we reserve the right to delay any cancellation and/or repayment of monies until such *investments* are registered into our *nominee company* or under our sole control. (Please note that any decrease in the value of your *investments* that occurs whilst we are waiting to receive control of your *investments* will be borne by you).
- 33.3 Certain *investment* contracts, such as long term insurance contracts, personal pensions, stakeholder pensions, life policies, cash deposit ISAs, and *investment* scheme units which are concluded from a distance may carry rights of cancellation both before and after conclusion of the contract. Details of these rights can be found on the product descriptions supplied by the product providers.

34. Third parties and nominated persons

- 34.1 We may accept instructions and receive and give information on your behalf from and to your other professional advisers or other third parties where you have confirmed in writing, normally in the *Client Agreement* or the *Nominated Persons* Form that we may do so. If the instructions are to relate to the transfer of stock and/or cash or management of your *investments* and *free money*, the third party must be an authorised person within the meaning of the *Act*, unless he or she does not carry on *Designated investment business* (e.g. a member of family or your attorney). Such instructions from any *nominated person* cannot be accepted by us until we have completed whatever actions we are required to undertake under the appropriate Money Laundering legislation or regulations. Where appropriate we will liaise directly with any *nominated person* to fulfil our obligations. Instructions from third parties may be either oral or in writing (including, but not limited to instructions received from them by fax) but we accept no responsibility for any errors or omissions resulting from misunderstandings in respect of oral instructions. We will not accept instructions from third parties who are not *nominated persons*, nor provide information to professional or other advisers without such written authority.
- 34.2 Where this *Agreement* is addressed to more than one person, unless you have appointed a contact person for the portfolio, any instruction, notice, demand, acknowledgement or request to be given by you under this *Agreement* may be given by or to any one of you. We are not required to verify the authority of that person passing us such instruction. That person may give us an effective and final discharge in respect of any of our obligations.

35. Recording of telephone conversations

- 35.1 You consent that we may record telephone conversations which we may have with you, and acknowledge that such recordings may be used in evidence in the event of a dispute. Our recording shall be and remain our sole property and will be accepted by you as conclusive evidence of the orders, instructions or conversations so recorded. You agree that we may deliver copies and/or transcripts of such recordings to any court or regulatory authority.

36. Liability

- 36.1 Nothing contained in this section or elsewhere in this *Agreement* shall act as to limit or exclude our liability to you to the extent that such liability is attributable to a breach by us of the regulatory system established by the *Act*.

- 36.2 Any advice by us or by any of our staff to you in relation to any transaction shall be given in good faith but, except where the *Act* provides otherwise, without responsibility to you for the consequences of accepting or rejecting such advice and every transaction shall be undertaken by you in sole reliance upon your own judgement and determination.
- 36.3 You irrevocably and unconditionally agree to indemnify or reimburse us and our agents on demand, and keep us fully and effectively indemnified (whether before or after termination of this *Agreement*) from and against any and all acts, proceedings, claims, demands, liabilities, obligations, losses, damages, penalties, actions, judgements, suits, costs, expenses and disbursements of any kind or nature whatsoever which may be imposed on, incurred by or assessed against us as a direct or indirect result of our acting under this *Agreement*. However, this indemnity shall not apply to any loss or liability to the extent it arises or results from our negligence, fraud, breach of the *Agreement* or any criminal offences, or any contravention by us of the regulatory system established by the *Act*.
- 36.4 Neither we nor any of our staff shall be under any liability whatsoever for any loss or damage sustained by you arising from any actual or proposed transaction as a result of, or in connection with, the provision of any services to which this *Agreement* applies except in so far as and then only to the extent that, such loss or damage is caused by negligence or fraud on our part or of our staff or any failure by us to comply with applicable *FSA Rules*.
- 36.5 We have legal obligations regarding the detection, reporting and prevention of fraud, money laundering and terrorist activity. We are required to take action where we have suspicions about the use of, or any activity concerning, any accounts or funds we hold or any facilities we provide. Where we are permitted legally to do so, we will advise you of any investigation or of any delay arising from any such investigation. We may be obliged to refuse transactions or instructions. We will not be liable to you or any third party for any loss or damage arising from any action we may take as a result of our legal obligations.
- 36.6 We shall not be liable for the taxation consequences of any transaction nor shall we be liable for taxation charges arising for any reason.
- 36.7 We may as part of our services to you offer Capital Gains Tax computations or information to assist you. However, you should be aware that due to the complexity of constantly changing tax legislation, we are unable to accept responsibility for such information and/or computations. We would strongly recommend customers who may have exposure to Capital Gains Tax to seek expert advice, although we may be able to provide information which will be of use in Capital Gains Tax computations. Whilst such information will always be provided in the utmost good faith, we give no representation, warranty or guarantee as to and accept no liability for the completeness or accuracy of the information, or for the tax consequences which may arise if customers act on such information.
- 36.8 We shall not be liable for any loss of opportunity which may have resulted in an increase in the value of your portfolio nor any reduction in the value of your portfolio as a result of market movements. Save for **execution only** customers (except when we are extending lending facilities), we are required by the *FSA* to take steps to find out facts about your financial position in order to assess the suitability of our advice and of transactions to be entered into by us on your behalf. If you, or any other person acting with your authority, provide us with inaccurate information, we shall not be liable in any way concerning the suitability of any *investment* advice given by us or of any transactions entered into by us on your behalf.
- 36.9 We accept no liability for *investment* advice given to you, or *investment* decisions taken on your behalf by, any financial adviser, *nominated person* or any other person not connected with us, nor will we be under any obligation to perform any monitoring functions with regards to any transaction or other advice given by such persons.
- 36.10 We shall not be responsible for making any disclosures or notification that you may have under the Panel Rules, the Companies Act or any other future legislation in relation to your *investments* even if they are registered in the name of our *nominee company*.

36.11 You hereby agree that, although we will act and provide services as per Section 5 of this *Agreement* (The services we will provide), the only duties or obligations we owe you are those set out expressly in this *Agreement* and that we do not owe you any other further duties or obligations (whether arising from the fact that we are acting as your fiduciary or otherwise). You hereby agree that any consent or waiver given by your acceptance of this *Agreement* in relation to any duty or obligation we might otherwise owe you shall be valid, effective and comprehensive, and not specific to any particular transaction that may be carried out.

37. Force Majeure

37.1 Except as provided otherwise under the *Act*, we shall not be liable to you or in breach of the *Agreement* if there is any total or partial failure of performance of our duties and obligations hereunder occasioned by any act of God, terrorism, fire, act of government or state, war, civil commotion, insurrection, embargo, breakdown, or computer systems or other machine failure, inability to communicate with market makers for whatever reason, prevention from or hindrance in obtaining any raw materials, energy or other supplies, labour disputes of whatever nature or any other reason (whether or not similar in kind to the foregoing) beyond our control.

38. Illegality

38.1 If any provision or term of this *Agreement* or any part thereof shall become or be declared illegal, invalid, unfair or unenforceable for any reason whatsoever, such term or provision shall be deemed to be deleted from this *Agreement*, but the legality, validity, fairness or enforceability of the remaining provisions of this *Agreement* shall not in any way be affected or impaired provided that, should any such deletion substantially affect or alter the commercial basis of this *Agreement*, the parties shall negotiate in good faith to amend and modify the provisions of this *Agreement* as may be necessary or desirable in the circumstances.

38.2 These terms shall be subject to the rules of any *Investment Exchange* under whose rules or using whose facilities we enter into any transaction on your behalf. Such rules shall be deemed to be incorporated herein and shall form part of this *Agreement*. In the event of any conflict between such rules and these *Terms and Conditions*, the provisions of such rules shall take precedence over these *Terms and Conditions*.

39. Changes

39.1 We may amend any provision of this *Agreement* or our arrangements with you by sending you and/or your *financial adviser* a written notice describing the relevant changes. Such changes will become effective at a date to be specified in the notice which will be at least ten *Business Days* after the notice is sent to you. In the case of changes brought about by circumstances outside our control we will notify you of such changes as soon as possible.

39.2 You may ask us not to include any provision of this *Agreement* by giving written notice to that effect, but we are only able to agree if such a change is relevant to the circumstances and it is practicable to carry out your request.

39.3 You can also amend the arrangements between us in the following ways:

- by changing your *investment objectives*;
- by imposing new restrictions under section 8 (Restrictions on types of *investment*) or by changing or lifting any restrictions which you have previously imposed; and
- by giving or withdrawing any consent required under this *Agreement*.

39.4 However, any such amendments which you wish to make will only become effective when your Investment Manager receives a letter from you sent in accordance with the provisions of this section setting out the amendment concerned and you have received written acknowledgement from us of such amendment.

40. Commencement

40.1 For new customers or accounts, the following matters must have been completed before we can begin to manage or invest in respect of any of your assets:

- you have received from us a copy of these *Terms and Conditions*;

- we have received a completed signed *Client Agreement* (save for **execution only customers** not using our nominee facilities);
- the obligations under money laundering legislation and regulations have been satisfied;
- in the case of a Trust, either all the Trustees have signed the *Client Agreement* and a certified copy of the trust deed is provided to us together with all Deeds of Appointment for the Trustees, or those Trustees authorised by the trust deed have signed the *Client Agreement*, and have provided us with documentary evidence of their delegated authority to open the account;
- in the case of a Company, we have received a copy of the board resolution authorising the opening of your account along with an authorised signatory list and specifying the Director(s) authorised to enter into this *Agreement* on behalf of the Company, and a duly signed copy of the *Client Agreement*.

40.2 You should be aware that the time taken to re-register cash, assets, shares and/or securities in the name of our *nominee company* will vary dependent on a number of factors outside our control. As such, we may not be able to effect transaction(s) you instruct us to carry out whilst your holdings are in the process of being re-registered. We do not accept liability for any loss you may suffer as a result of being unable to deal in your assets whilst they are in the process of re-registration in the name of our *nominee company*. Please note that in the event that you continue to receive correspondence direct from Companies or their registrars (particularly in respect of corporate actions), you should inform us immediately and, except for **execution only customers**, retain any such documentation pending our advice.

40.3 Additionally, if you are a **discretionary customer** or **advisory investment managed customer**:

- Following completion of the matters referred to in section 40.1 above, and subject to section 40.3.2 below, you will receive from us a *Commencement Letter* which sets out the date on which we shall begin to manage your portfolio or advise you in respect of it.
- Prior to the date set out in the *Commencement Letter* (which will not be before all of your assets have been re-registered in the name of our *nominee company* (unless we advise you otherwise)) and subject to the terms of the *Agreement*, we will at your request provide advice in respect of individual assets and on your instructions deal in respect of individual assets. We will not however be able to provide this service unless we have received from you a signed copy of this *Client Agreement*, and the appropriate money laundering legislation or regulations have been fulfilled.

41. Termination

41.1 Either you or we are entitled to terminate this *Agreement* by giving immediate written notice to the other.

41.2 Where "you" are more than one person and "you" are a **personal customer**, your obligations under these *Terms and Conditions* will be joint and several. Any notice given to any person who is a **personal customer** jointly and severally with others, will be deemed to be given to all of them as joint tenants; and we may act on the instructions of any such person, unless we receive valid written notice to the contrary setting out the precise basis upon which the property is to be held, and we shall be entitled to deal with that property in accordance with these *Terms and Conditions* and the general law, including, without limitation, the law relating to survivorship. Please note that, in the case of our customers that are resident in Scotland, any reference to "joint tenant" shall be taken to mean "proprietors of joint property" in which case this section shall be evidence of a survivorship provision.

41.3 For **discretionary customers** and **advisory investment managed customers** only if "you" are a **personal customer**:

41.3.1 Our authority under these *Terms and Conditions* is given by you on behalf of your successors in title as well as yourself. Accordingly, on the death of an individual, these *Terms and Conditions* will continue in effect. Prior to the production to us of any grant of probate, grant of representation or other such equivalent document, we shall continue to provide services as agreed under these *Terms and Conditions* in accordance with the *investment objectives* notified to us in accordance with section 5 (The services we will provide) of these *Terms and Conditions* and/or the *Client Agreement* or otherwise save that, in the case of the death of an **advisory investment managed customer**, we shall provide services on a discretionary managed basis (as defined in section 5.1). We may (but prior to any grant of representation, are not bound to) act on the instructions of your personal representatives. Once the grant of representation is presented to us, the intention is that these *Terms and Conditions* will be terminated (save in the case of holdings held in our *nominee company* and/or our custody, the sections relating to our *nominee company* and to safe custody) and, if requested we will consider offering a replacement *Agreement* for relevant services to the person(s) subsequently entitled as agreed between us.

You agree that during this interim period, all correspondence and documentation which we are required to forward to you under the *FSA Rules* will be forwarded to the person who has notified us of the death, unless otherwise agreed.

41.4 For **dealing with advice customers** and **execution only customers** if "you" are a **personal customer**:

41.4.1 On the death of any of the persons constituting "you", these *Terms and Conditions* will terminate, save for the sections referring to our nominee and/or safe custody facilities.

41.5 For all customers, this *Agreement* shall terminate immediately in the event that you make a voluntary arrangement with your creditors or (if "you" are an individual, Firm, Trust or Charity) become bankrupt or (if "you" are a Company) become subject to an administration order, go into liquidation or call a meeting of creditors or are otherwise the subject of proceedings under the Insolvency Act 1986 (or any successor legislation) (whether for the appointment of a liquidator, receiver or administrator other than for the purposes of a legitimate amalgamation or reconstruction) or you are unable to pay your debts as they fall due within the meaning of Section 123 of the Insolvency Act 1986 (or any successor legislation).

41.6 On termination of this *Agreement* the amount of any fees or other charges which have accrued up to the date of termination will become immediately due. If you are a **discretionary customer** or **advisory managed customer**, fees will continue to accrue in accordance with Section 41.3.

41.7 Withdrawal charges will be payable by you for transferring your *investments* out of our *nominee company* to you or your new *investment adviser* or any other person nominated by you whether on termination of this *Agreement* or otherwise. You will also pay to us any additional expenses or losses necessarily incurred by us in connection with your *investments* as a result of the termination of this *Agreement*.

41.8 If the *Agreement* is terminated by either you or us, we will still undertake the completion of any outstanding orders or transactions initiated by us prior to termination in a timely fashion and in accordance with best practice. However, once such orders or transactions have been completed, this *Agreement* will terminate, save for the sections relating to custody and nominee services (if applicable), your account will normally be dealt on an execution only basis unless otherwise agreed between us.

41.9 Any legal rights or obligations of either you or us which may have arisen prior to termination shall not be extinguished or reduced by termination of this *Agreement*.

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42. Notices

- 42.1 All notices given pursuant to this *Agreement* shall be in writing and shall be sent to the relevant address stated in our *Client Agreement*, unless a new address has been supplied by either party in accordance with this section, in which case notices shall be sent to the party at that new address.
- 42.2 Notices shall be sent by the following means and shall be deemed to have been received at the following times:
- by first class pre-paid post – on the third *Business Day* after despatch; or
 - by fax with correct answerback – on the *Business Day* after despatch.
- For the avoidance of doubt, notice may not be served by means of e-mail.
- 42.3 Please note that where this *Agreement* is with more than one client, notice need only be served by the firm on one of those clients.

43. Assignment

- 43.1 This *Agreement* is personal to you and your personal representatives and shall not be capable of assignment or transfer by you or them.
- 43.2 We may assign this *Agreement* to any company, person or other legal entity connected with us or to any other successor, firm or company on giving at least ten *Business Days* written notice to you to that effect.

44. Governing law

- 44.1 The provisions of this *Agreement* and the relationship created by it shall be governed by English Law and subject to the exclusive jurisdiction of the English courts.

45. Indulgences

- 45.1 Our failure to seek redress for violations or to insist upon strict performance of any condition or provision of this *Agreement*, or our failure to exercise any right or remedy to which we are entitled under it, shall not constitute a waiver thereof.

46. Complaints

- 46.1 In the event that you wish to make a complaint, this should be addressed to our Compliance Officer at our Liverpool Office address (The Plaza, 100 Old Hall Street, Liverpool, L3 9AB (or any other successor address as amended from time to time)), who can also provide you with a copy of our complaints procedures on request. We will attempt to rectify any complaint to your satisfaction, but if we are unable to do so, provided that we have not classified you as a **professional client** (Section 2 (Customer Classification)), the Financial Ombudsman Service will investigate the complaint impartially, provided that you are an *eligible complainant*.

47. Data Protection Act

- 47.1 All personal information provided by you to us and any other information relating to your accounts will be treated in confidence.
- 47.2 By disclosing your personal information to us, you consent to such information being collected and held in our computer systems and used in the following ways:
- to provide the services which you have engaged us to provide;
 - where a lending decision is involved, to aid us in assessing the extent of the credit we will offer you;
 - to keep you informed by mail or telephone of other services which we or any of our sister or associated companies consider may be of interest to you.
- We may also use your personal information in aggregate form in order to help us analyse, develop, and manage our business.
- 47.3 Your personal information will not be disclosed to any third party except:
- we may be required or it may be appropriate for us to disclose your personal information to the FSA, the London Stock Exchange or any other regulatory or enforcement body (whether in the UK or elsewhere) having

jurisdiction over the matters in respect of which disclosure is made, including without limitation matters relating to actual or suspected money laundering;

- we may disclose your personal information to a credit reference agency who may retain a record of the data we supply to them for the purpose of carrying out both credit reference checks and also money laundering checks which we are required to carry out by law and to fulfil our legal obligations from time to time;
 - we may disclose your personal information to product providers for the purposes of obtaining quotes in respect of *investments* which may be of interest to you;
 - it may be necessary for us to disclose your personal information to third parties to enable us to transact business on your behalf;
 - it may be necessary for us to disclose your personal information to third parties if we are arranging a seminar or other corporate events with such parties in order to manage the event and, if applicable, to reduce the risk of you receiving more than one invitation.
- 47.4 We may also disclose or allow your personal data to be collected or used under a strict code of secrecy to persons within the sub-contractors or persons acting as our agents who may include other companies within the Investec group (or any other successor group holding company), who administer or process the information on our behalf. Please be assured that all personal data, wherever it is held within the same group as us or by its sub-contractors or agents will be afforded a high level of protection against any authorised, unauthorised or accidental disclosure, access or deletion, although this cannot be guaranteed by us.
- 47.5 You consent to us using a credit scoring or other electronic data check mechanism when considering your account application and also when providing you with services under this *Agreement*. In the same circumstances, we may search files of credit reference agencies, who may keep a record of the search. We may also carry out identity and anti-fraud checks. Your information may also be used for debt tracing.
- 47.6 You also consent to the possible transfer of your personal information outside the EEA for the purposes of processing by us, our subcontractors or agents and to the possible transfer of your personal information to unconnected third parties in the event that the assets of the company were sold to a third party.
- 47.7 In accordance with the Data Protection Act 1998, you are entitled, on payment of a fee, to a copy of the information we hold about you. In the first instance, you should direct any such request to us in writing to The Compliance Officer at our Liverpool Office address (The Plaza, 100 Old Hall Street, Liverpool, L3 9AB (or any other successor address as amended from time to time)).
- 47.8 Investec Wealth & Investment is the data controller for the purposes of the Data Protection Act, 1998.

48. Contracts (Rights of Third Parties) Act 1999

- 48.1 A person who is not a party to this *Agreement* shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this *Agreement*, save for our agents, nominees and affiliates only, and those persons detailed in sections 41 (Termination) and 43 (Assignment) of this *Agreement*.

49. Record retention

- 49.1 In accordance with legal and regulatory requirements, we will retain your records for at least five years following the termination of any relationship between us, unless this period is extended by law or regulation.

50. Payment of adviser agreed remuneration

- 50.1 Adviser Agreed Remuneration
- We will pay to your *financial adviser* any *advised remuneration* you have instructed us to pay. We will make no charge to you for this facilitation service.

The *adviser remuneration* that you have agreed to pay your *financial adviser* are a matter between you and your *financial adviser*. [We will not get involved at all with you or your *financial adviser* about them, including the assessment of the suitability or amount of the *adviser agreed remuneration* you have agreed to pay.]

When we pay a *adviser agreed remuneration* to your *financial adviser*, this is a payment we are making at your direction and on your behalf. The *adviser agreed remuneration* is not a payment for any services provided by your *financial adviser* to us.

We will deduct an initial *adviser agreed remuneration* just before any contributions and transfers in from previous schemes are invested.

We will act only in accordance with your instruction in respect of the payment of *adviser agreed remuneration*, except where we expressly indicate otherwise in these *terms and conditions*.

We will act on the instructions of your *financial adviser* only where your *financial adviser* is asking us to reduce or stop paying any *adviser agreed remuneration*. We will not extend or increase *adviser agreed remuneration* without your instruction.

Adviser agreed remuneration will be paid to the order of your *financial adviser* and once due, payment will be credited to your *financial adviser* on dates agreed between us and your *financial adviser*.

If after reasonable efforts on our part, we have been unable to make payments of any *adviser agreed remuneration* to your *financial adviser*, we will stop deducting *adviser charges* and notify you of our action. *Adviser agreed remuneration* deducted but unpaid to your *financial adviser* will be re-credited back to your account with us.

The payment of any *adviser agreed remuneration* is in addition to our charges.

If we receive an *adviser agreed remuneration* refund from your *financial adviser*, we will not be able to return it to you in cash. We will, however, credit the *adviser agreed remuneration* to your account with us.

50.2 Cancelling your Service

When you take out a service with us, you will have a period of time during which you can change your mind by cancelling the service. If you decide to cancel your service during the cancellation period, we will not be able to reclaim any *adviser agreed remuneration* that has already been paid to your *financial adviser*. You may remain liable to pay your *financial adviser* for the services they provided for you. You should check the terms of your agreement or arrangement with your *financial adviser*.

50.3 Our Right to Stop Payment of any Adviser Agreed Remuneration

We can stop or reduce the payment of all or part of an *adviser agreed remuneration* if

- we no longer have a business relationship with your *financial adviser*;
- we reasonably believe that the payment of the *adviser agreed remuneration* would be in breach of any relevant laws or regulations;
- we reasonably believe that your *financial adviser* was not appropriately authorised by the Financial Services Authority or exempt from authorisation under the Financial Services and Markets Act 2000 or any replacement regulator at the time of providing you with advice or services in relation to your *individual fund*;
- your *financial adviser* ceases to trade;
- we believe your *financial adviser* may be insolvent;
- we terminate our services to facilitate *adviser agreed remunerations*; or
- the payment exceeds the maximum amount of *adviser agreed remuneration* that we can facilitate as set out by us from time to time.

We will endeavour to notify you as soon as possible of the action we have taken.

Adviser agreed remuneration that have already been deducted but not yet paid will be re-credited to your account.

If there is not enough money in your account to pay an *adviser agreed remuneration* in full, we can make a partial payment to the extent possible. You may

remain liable to pay any shortfall of *adviser agreed remuneration* to your *financial adviser* and you should check the terms of your agreement or arrangement with your *financial adviser*.

50.4 Information about the Charges

We will provide you with written confirmation when we set up the arrangements to pay *adviser agreed remuneration* you have instructed us to pay to your *financial adviser* or if the *adviser agreed remuneration* are varied or stopped.

We may ask you to check the information that we provide to you and bring it to our attention if you believe there are any errors or omissions.

50.5 Outstanding Responsibility

If *adviser agreed remuneration charge* is stopped, reduced, unpaid or is re-credited to your account, you may remain liable to reimburse your *financial adviser*. You should check the terms of your agreement or arrangement with your *financial adviser*.

50.6 Value Added Tax (VAT)

We will treat all instructions from you to pay *adviser agreed remuneration* as including any VAT where it is applicable at the rate prevailing at the time of the payment of the *adviser agreed remuneration* and taking into account any changes to the rate of VAT howsoever occurring. We will not update any existing ongoing *adviser agreed remuneration* to account for new VAT rates.

ADDITIONAL TERMS & CONDITIONS FOR ISA ACCOUNTS

For any *ISA investments*, these *ISA Terms and Conditions* are in addition to sections 5-49, unless otherwise stated.

51. The operation of your account

51.1 We will normally operate your *ISA investments* on the basis of the information contained within your *Client Agreement* unless otherwise agreed with you. If we have agreed an alternative mandate of customer service, objective and risk profile for such *investments*, we will manage such *investments* on this agreed basis, using the definitions detailed in sections 5 (The services we will provide) and 6 (Classification of Investment Objective and Risk) of these *Terms and Conditions*.

52. General

52.1 In the case of *ISAs*, Investec Wealth & Investment is approved by HM Revenue & Customs (HMRC) to act as *ISA Manager*. You hereby appoint us as the *ISA Manager* for your *ISA*, and give us authority to operate it in accordance with these *ISA Terms and Conditions*, the *Terms and Conditions for Investment Management and Dealing Services*, the appropriate *Client Agreement* signed by you, and either your *ISA Application Form* and *ISA Transfer Form* as applicable, in accordance with the requirements of (HMRC) (currently *The Regulations*).

52.2 You authorise us to:

- 52.2.1 Hold your *ISA investments* in the name of our *nominee company* (or if required, in the name of the *Manager* as appropriate).
- 52.2.2 To carry out any actions required by the *Manager* on your behalf.
- 52.2.3 To comply with any law or regulation which may affect the management of your *ISA*.
- 52.2.4 To apply on your behalf to (HMRC) to make the necessary reclaims, where appropriate, under *The Regulations* as appropriate. Such claims for the payment of tax credits on your behalf will be made in accordance with *The Regulations* as applicable.

52.3 Your *ISA* will be operated in accordance with the requirements of (HMRC), the *Regulations*, the terms contained in these *ISA Terms and Conditions* and one of the following as applicable:

- (a) for **discretionary customers**, section 5.1.
- (b) for **advisory investment managed customers**, section 5.2.
- (c) for **dealing with advice customers**, section 5.3.
- (d) for **execution only customers**, section 5.4.

52.4 In all cases, if any of these *ISA Terms and Conditions* or the *Terms and Conditions for Investment Management and Dealing Services* conflict with the *Regulations* or with the rules of the *FSA*, then the *Regulations* or the *FSA Rules* will take priority and either these *ISA Terms and Conditions* or the *Terms and Conditions for Investment Management and Dealing Services*, as applicable, shall be amended in order to comply. In this case, any change deemed significant by us shall be brought to your attention. We may otherwise amend any provision of this *ISA Agreement* in accordance with sections 39 (Changes) and 41 (Termination) of our *Terms and Conditions for Investment Management and Dealing Services*.

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

52.6 We reserve the right to delegate any or all of our functions under this *ISA Agreement* to a third party. In so doing we will ensure that we are satisfied with the competence of such a person or organisation to carry out such functions or responsibilities.

53. Investment

53.1 Monies held in an *ISA* will be retained by us in a *Client Money* bank account with an *Approved Bank* as we may from time to time nominate for this purpose.

53.2 Unless otherwise agreed between us, and specifically designated otherwise, and save for any restrictions stated in the *Regulations*, monies held in an *ISA* will be invested in accordance with sections 8.1 (Restrictions on types of *investment*) and 31 (Giving Instructions) of our *Terms and Conditions for Investment Management and Dealing Services*.

53.3 Cash may be held temporarily in a stock and shares component *ISA* for the sole purpose of investing or reinvesting in other qualifying *investments*. Please note the following:

- (a) investors are not liable to *UK Income Tax* on interest paid on cash on deposit held in a *Stocks and Shares ISA*. Interest paid on cash on deposit held in a *Stocks and Shares ISA* is not subject to tax deduction but it is subject to a flat rate charge of 20% collected by *IW&I* and paid to HMRC. This treatment also applies to interest credited on or after April 6 2008 to former *PEPs*.
- (b) under current legislation where uninvested cash remains for 12 months or more in *Stocks and Shares ISA* for **advisory investment managed customers, dealing with advice customers and execution only customers**, and you have not responded to a notice(s) of reminder from us within the time stated, HMRC may require us to return the said cash to you without further notification to you. Such cash cannot subsequently be returned and reinvested into the *ISA* from which it was paid. In all cases, uninvested cash may be subject to a charge and any interest accrued may be subject to tax, by HMRC.

53.4 You warrant that during the continuance of the *ISA*, you will remain the beneficial owner of the *investments* and/or cash held in the *ISA* and will not use the *ISA* as security for a loan. This includes and applies to charges upon *investments* by way of legal or equitable mortgages but does not affect the creation of mere equitable charges.

54. Dividends

54.1 Dividends, income distributions and interest on bank deposits will be collected and retained within the *ISA* on your behalf and will be reinvested by us unless you direct otherwise.

54.2 We do not offer the facility to take up a scrip dividend or an enhanced scrip dividend within an *ISA* nor will we use the Dividend Reinvestment Plans (DRIPs) offered by certain companies. All dividends will be taken in cash. Taxation that can be reclaimed is governed by the *Regulations* as amended from time to time.

55. Charges

(In addition to section 10 (Our charges) of our *Terms and Conditions for Investment Management and Dealing Services*).

55.1 Full details of the charges made by us in connection with the *ISA* are shown in our most recent and relevant rate card pertaining to the service agreed between us. We will be entitled to vary the rate of charges on prior written notice of ten *Business Days* in advance of the date of the charge being applied in accordance with section 42 (Notices) of our *Terms and Conditions for Investment Management and Dealing Services*.

55.2 Should there be insufficient funds in the *ISA* to pay charges as and when they become due or if we have reason to believe that you may be unable or unwilling to meet any other liabilities or obligations under this *ISA Agreement*, we reserve the right, without prior notice to you, to sell *ISA investments*, transfer funds from other applied accounts held with us in your name or take any other steps we may consider necessary to protect our position. You grant us a general and particular lien over all *investments* and money comprised in the *ISA* for all claims, liabilities and money whatsoever owing to us by you pursuant to this *ISA Agreement* together with the right to dispose of any such *investments* in order to satisfy such claims and liabilities.

55.3 Please note that if you have inadvertently breached *The Regulations* resulting in avoidance of your account by (HMRC) under the *Regulations*, we reserve the right to charge an administration fee for handling the avoidance of your account.

56. Rights issues, takeovers, scrip dividends and other entitlements

(This section is in addition to section 22 (Rights issues, takeovers, scrip dividends and other entitlements) of the *Terms and Conditions*).

56.1 In the case of *ISA investments*, subscriptions to rights issues and calls on partly paid stock can only be financed by money held within the *ISA*. You cannot add further funds to finance these events unless you have not yet subscribed in full for an *ISA* in the year concerned and that the additional funds are confined to the unused subscription limit. If non-eligible stock is acquired as a result of a bonus issue or de-merger and if no instruction has been received from you, we will sell the holding(s) and the proceeds will be applied to your *ISA* account.

57. Shareholder's rights

(This section replaces section 18.1.10 of the *Terms and Conditions*).

57.1 If you so elect, we will arrange for you to receive, within a reasonable timeframe following their publication, a copy of the Annual Report and Accounts issued by every *UK* quoted company in respect of *investments* which are held directly in the *ISA*. We will also arrange (subject to *The Regulations* or any provisions made by or under any other enactment), upon reasonable notice of a request from you, for you to be able to attend *UK* shareholders', securities holders' or unit holders' meetings, to vote. This service will be subject to an administration charge as detailed in the most recent and relevant rate card for the service agreed between us.

57.2 Subject to your rights to elect to vote as set out at section 22 above (Rights issues, takeovers, scrip dividends and other entitlements) (which under section 4.30 of the *ISA Regulations* must vest in the investor) we may exercise any voting rights or other rights on your behalf in relation to *ISA investments* including those of conversion, subscription, takeovers and other offers or capital reorganisations in accordance with section 22 (Rights issues, takeovers, scrip dividends and other entitlements) of the *Terms and Conditions for Investment Management and Dealing Services*.

58. Commencement

58.1 Commencement of the *ISA Agreement*

58.1.1 Your *ISA* will commence on the day in which your funds are deposited with us – this will normally be a cheque directly from you, a transfer from any other account you may have with us, or in the case of transfers from another

ISA Manager, the day in which such funds are received by us. Additionally, in the case of ISA investments:

- In respect of a new ISA account, we have received a completed signed Stocks and Shares ISA Application Form;
- or:
- In respect of transfers, we have received a completed signed Stocks and Shares ISA Transfer Form as applicable.

Please note that if you are transferring a portfolio to our management, the sums held in your ISA accounts may be included in the initial value sum detailed on the Commencement Letter.

59. Termination, transfer, withdrawal and deceased ISA holders

(For your ISA only, this replaces the sections 41.3 to 41.6 (Termination) of the Terms and Conditions for Investment Management and Dealing Services).

- 59.1 Our appointment as ISA Manager may be terminated at any time by either party giving written notice to that effect. Once terminated and subject to your instructions, we will either sell the ISA investments at the prevailing selling price and hold the proceeds to your order or transfer the ISA investments in accordance with instructions received from you or any nominated person on your behalf. We may also take a retention from the ISA and apply it towards the discharge of your tax liabilities and any of your obligations under the terms of this ISA Agreement.
- 59.2 You may at any time by written notice, require us to transfer current year subscription in whole and/or previous year's investments in whole or in part together with all rights and obligations of the parties to the ISA to another ISA Manager. Investments and/or cash can only be transferred to the same component of an ISA of the same type. Cash ISAs can be transferred into Stocks and Shares ISAs, but Stocks and Shares ISA cannot be transferred into Cash ISAs. If an investor transfers their current year's subscription from a Cash ISA to a Stocks and Shares ISA they are eligible to open another Cash ISA, with another provider, subject to the annual subscription limits. It does, however, need to be their whole year's subscription not just a partial transfer.
- 59.3 You may at any time withdraw part of your ISA in a combination of investments and/or cash upon giving us written or oral notice though if the withdrawal is to be forwarded to a third party, we will require your written instructions. Termination will be without prejudice to the completion of transactions already initiated.
- 59.4 Transfers or withdrawals will be completed on our instructions and in a timeframe stipulated by you, as soon as practicable after receipt of your written instructions. We will endeavour to make this transfer or withdrawal within 30 days, but you should be aware that we cannot be held responsible for delays caused by other Plan Managers, Registrars or Custodians.
- 59.5 Partial transfers or withdrawals are permitted subject to a minimum value of £100 remaining in the ISA. We reserve the right to terminate the ISA should the value of its investments and/or cash fall below £100.
- 59.6 The date of death of an investor shall be treated as the date of cessation of the ISA. Distributions, interest, dividends or gains arising after the date of death are subject to a full tax charge. Based on our interpretation of current tax legislation, for capital gains tax purposes, the investments under the ISA will be treated as if they had been acquired by the personal representative at market value as at the date of death. For inheritance tax purposes the market value of the investments under the ISA as at the date of death will form part of the investor's estate.
- 59.7 We shall notify you in writing if, by reason of any failure to satisfy the provisions of The Regulations, an ISA has or will become void for tax purposes. We reserve the right to levy a charge should an ISA (or part of) be deemed void (unless caused by our negligence or that of an associated company).
- 59.8 Please note that in all cases of termination, the sections of the ISA Agreement relating to our nominee company and custody will continue in effect whilst your money and/or investments remain in our possession.

60. Cancellation rights

- 60.1 For new ISA Applications only:
- 60.1.1 In addition to your rights under section 33 (Cancellation Rights) of the Terms and Conditions for Investment Management and Dealing Services, you have the right to withdraw any offer which you make to us to subscribe for a Stocks and Shares ISA. To exercise that right you must, within 7 days after the date upon which you send to us the Stocks and Shares ISA Application Form, send to us written notice of your wish to withdraw. However, this right to withdraw will not apply if at the date of your Stocks and Shares ISA Application Form we are acting as your Investment Manager (either as a discretionary customer or advisory investment managed customer as agreed between us), or if in the previous tax year you entered into an ISA with us on substantially the same terms as the ISA to which this Agreement relates.
- 60.2 For ISA Transfers only:
- 60.2.1 In addition to your rights under section 33 (Cancellation Rights) of the Terms and Conditions for Investment Management and Dealing Services, you have the right to withdraw any offer which you make to us to transfer your Cash ISAs and Stocks and Shares ISAs as applicable. To exercise that right you must, within 7 days after the date upon which you send to us the applicable transfer form, send to us written notice of your wish to withdraw. However, this right to withdraw will not apply if at the date of your Cash ISA Transfer Form or Stocks and Shares ISA Transfer Form, as applicable, we are acting as your Investment Manager (either as a discretionary customer or advisory investment managed customer as agreed between us).
- 60.3 Any notice of withdrawal should be made in writing to: ISA Department, Investec Wealth & Investment, The Plaza, 100 Old Hall Street, Liverpool, L3 9AB (or any other successor address as notified to you from time to time).

ADDITIONAL TERMS & CONDITIONS FOR THE INTERNET VALUATION FACILITY

If you use our Internet Valuation Facility, hosted via our website these sections 65-68 will apply.

61. Username and password

- 61.1 If you wish to use the Internet Facility then you will need to request a Username and Password from us. You will need to provide the Username and Password each time you wish to use the Internet Facility.
- 61.2 In relation to the Username and Password you acknowledge and undertake that:
- you will be responsible for the confidentiality and use of your Username and Password;
 - other than with our prior written consent, you will not disclose your Username and Password to any other person for any purpose whatsoever; and
 - you will immediately notify us if you become aware of the loss, theft or disclosure to any third party or of any unauthorised use of your Username and Password.
- 61.3 If we believe that your Username and Password is being used without your knowledge by unauthorised persons, we may without prior notice suspend your rights to use the Internet Facility. Further, if we believe that you have supplied your Username and Password to other persons in breach of section 65.2 of this Schedule, then we may terminate the Internet Valuation Facility accordingly.

62. Data

- 62.1 We will provide you with such market data and information ('Data') through the Internet Facility as we may determine from time to time. Data is obtained from both our systems and that of third party data providers, which we believe to be reliable but may be subject to change without notice. You acknowledge and agree that:
- we do not independently verify and have no

responsibility whatsoever for the content or accuracy of the Data and we give no warranty or assurance of any kind:

- as to the accuracy or completeness of any Data or as to the suitability of any Data for any purpose intended by you; or
 - that the third party provider has the right and entitlement to provide the Data; and we shall have no liability for losses, costs, liabilities or expenses (including, without limitation, any loss of profit) which may arise directly or indirectly from use of or supply of Data or for any infringement of any third party intellectual property rights by reason of the provision of Data;
- no Data is to be interpreted as constituting any sort of advice or recommendation by us that any investment referred to therein is suitable for you;
 - all Data is either our own property or the property of third party data providers and is protected by copyright and other intellectual property laws. It may be displayed, re-formatted, stored or printed for your personal non-commercial use only. You agree not to reproduce, re-transmit or distribute Data to anyone without our prior written consent (and, where relevant, the prior written consent of the relevant data provider) and undertake that you will not sell or supply Data to any third party; and
 - you may print copies of any item in hard copy for your personal use or for use by others within your organisation. You may also download any item to a local hard disc provided it is for your personal use or access by others within your organisation.

63. Liability

- 63.1 You acknowledge that the operation of the Internet Facility is dependent upon computer and communication systems and software which may be susceptible to malfunction, unauthorised access, failure or interruption beyond the control of ourselves and that the Internet is not a completely reliable transmission medium and you agree that we shall have no liability and shall not be responsible for any failure to provide the Internet Facility on the occurrence of a Force Majeure event (as set out in section 37 (Force Majeure) of these Terms and Conditions) and in such circumstances, any obligation we may have to supply or continue to supply the Internet Facility shall be suspended pending resolution of the event or state of affairs in question.

64. Copyright notice

- 64.1 The contents of the pages comprising the Internet Valuation Facility are © Investec Wealth & Investment. Reproduction is only permitted in accordance with the terms of the Internet Valuation Facility.

Act

The Financial Services and Markets Act 2000.

Adviser agreed remuneration

Means a charge agreed between you and your *financial adviser* for providing you with advice about the investment management and dealing services we provide.

Agreement

This is made up of:

- These *Terms and Conditions for Investment Management and Dealing Services*.
- The *Client Agreement* for the relevant service agreed between us.
- Our rate card which details our charges.
- Where applicable, the *Commencement Letter* (for **discretionary customers** and **advisory investment managed customers** only).
- Where applicable, for financial planning services, our '*Letter of Engagement*'.
- Any other letter or document that we may provide to you under the FSA's *Conduct of Business Rules*, that is stated by us to constitute part of the *Agreement* in accordance with section 39 (Changes) of these *Terms and Conditions*.

APCIMS

The Association of Private Client Investment Managers and Stockbrokers.

Approved bank

As defined in the FSA Handbook of rules and guidance. Such definition is available from us on request, can be found on the FSA's website (www.fsa.gov.uk) and/or can be found on our website: www.investecwin.co.uk

Business day

A day (other than a Saturday or Sunday) on which banks are open for general business in London.

Cash ISA Transfer Form

The Transfer Form signed by you in accordance with the *ISA Regulations* to transfer a Cash ISA to us.

Client agreement

The agreement headed "*Client Agreement*" entered into between you and us where, depending upon the service agreed between us, you are invited to set out your *investment* objectives and any limits on the type of transaction with which you may be involved.

Client money

As defined in the FSA Handbook of rules and guidance. Such definition is available from us on request, can be found on the FSA's website (www.fsa.gov.uk) and/or can be found on our website: www.investecwin.co.uk

Client money rules

The rules relating to "client money" under the FSA's Client Assets Sourcebook, as defined in the FSA Handbook of rules and guidance. Such definition is available from us on request, can be found on the FSA's website (www.fsa.gov.uk) and/or can be found on our website: www.investecwin.co.uk

Commencement letter

For discretionary customers and advisory *investment* managed customers, the letter sent to you by us confirming your initial cash position and portfolio composition and which sets out the date upon which this *Agreement* comes into force and we shall begin to manage or advise upon your assets.

Custodian

As defined in the FSA Handbook of rules and guidance. Such definition is available from us on request, can be found on the FSA's website (www.fsa.gov.uk) and/or can be found on our website: www.investecwin.co.uk

Designated investment business

As defined in the FSA Handbook of rules and guidance. Such definition is available from us on request, can be found on the FSA's website (www.fsa.gov.uk) and/or can be found on our website: www.investecwin.co.uk

Eligible complainant

As defined in the FSA Handbook of rules and guidance. Such definition is available from us on request, can be found on the FSA's website (www.fsa.gov.uk) and/or can be found on our website: www.investecwin.co.uk

Financial adviser

An 'adviser' appointed by you to advise and act on your behalf, who is authorised by the FSA, or a member of a Designated Professional Body and is not connected with these.

Free money

Cash held by us on your behalf and not held as part of accrued dividend and other income, nor for the settlement of immediate transactions. Cash receipts become *free money* on the day that they are applied to your account; sale proceeds become *free money* on the settlement date.

FSA

The Financial Services Authority or any successor organisation.

FSA rules

The FSA Handbook of rules and guidance.

FSA's conduct of business rules

The Conduct of Business Rules issued by the FSA from time to time, pursuant to the Act.

Investment

Any *investment* that falls within the regulatory regime established under the Act for which we are authorised by the FSA to conduct *investment* business in.

Investment exchange

Any dealing exchange recognised, designated or prescribed by the FSA, as amended from time to time.

ISA

An Individual Savings Account, as defined by the *ISA Regulations* and subscribed to, by you.

ISA agreement

This is made up of:

- These *Terms and Conditions for Investment Management and Dealing Services*.
- The *Client Agreement* Form for the relevant service agreed between us.
- The relevant section of our rate card, relating to charges.
- Where applicable, the *Commencement Letter* (for **discretionary customers** and **managed investment advisory customers** only).
- Either the *Stocks and Shares ISA Application Form*, *Stocks and Shares ISA Transfer Form* as applicable.
- Any other letter or document that we may provide to you under the FSA's *Conduct of Business Rules*, that is stated by us to constitute part of the *Agreement*.

ISA application form

The Application Form signed by you in accordance with the ISA Regulations to subscribe to a Stocks and Shares ISA.

ISA manager

Investec Wealth & Investment.

ISA regulations

The Individual Savings Account Regulations 1998, as directed by HM Treasury and as amended from time to time.

Letter of Engagement

Our '*Letter of Engagement*' for financial planning services which set out the services we will provide on your behalf in relation to financial planning *investments* and sets out the basis of our remuneration, in accordance with this *Agreement*.

Market information

Any news, information or educational materials provided by us.

Means of distance communication

The entering into our *Agreement* without visiting any of our offices or having a meeting with any of our employees or agents ("staff"), as defined in The Financial Services (Distance Marketing) Regulations 2004, as amended from time to time.

Definitions

Nominated person

Any person listed in the appropriate section of the *Client Agreement* or notified to us in accordance with Section 34 of these *Terms and Conditions* as being nominated to issue instructions to us on your behalf.

Nominee company

Rensburg Client Nominees Limited, incorporated in England under number 2020824; Ferlim Nominees Limited, incorporated in England under number 01022478; Hero Nominees Limited, or such other *nominee company* as we may lawfully establish from time to time. For overseas securities, these will be lodged with an authorised depository in the name of 'our *nominee company*', or the company if required.

Normal market size

A value expressed as a number of shares used to calculate the minimum quotation size for *UK* domestic equities and ADRs traded on the London Stock Exchange. The NMS values, which range from 500 shares to 200,000 shares, are based on each individual stock's average market turnover value in the previous 12 values.

Options agreement

As defined in the *Terms and Conditions* for Options, Futures and Contracts for Difference.

Panel rules

The rules issued by the Panel of Takeovers and Mergers, as amended from time to time.

Professional client

As defined in the *FSA Handbook* of rules and guidance. Such definition is available from us on request, can be found on the *FSA's* website (www.fsa.gov.uk) and/or can be found on our website: www.investecwin.co.uk

Registered office

Our registered office from time to time, which is currently 2 Gresham Street, London EC2V 7QP.

Retail client

As defined in the *FSA Handbook* of rules and guidance. Such definition is available from us on request, can be found on the *FSA's* website (www.fsa.gov.uk) and/or can be found on our website: www.investecwin.co.uk

Retail investment products

As defined in the *FSA Handbook* of rules and guidance. Such definition is available from us on request, can be found on the *FSA's* website (www.fsa.gov.uk) and/or can be found on our website: www.investecwin.co.uk

IW&I

Investec Wealth & Investment, incorporated in England under number 2122340, authorised and regulated by the Financial Services Authority. A member firm of the London Stock Exchange. A member of Euronext. A member of NYSE Liffe.

Scheme

The Financial Services Compensation Scheme.

Stocks and Shares ISA Application Form

The Application Form signed by you in accordance with the *ISA Regulations* to subscribe to a Stocks and Shares ISA.

Stocks and Shares ISA Transfer Form

The Transfer Form signed by you in accordance with the *ISA Regulations* to transfer a Stocks and Shares ISA to us.

Taxation

All forms of taxation whether of the *UK* or elsewhere in the world wherever imposed and all statutory, governmental, state, provincial, local government or municipal impositions, duties and levies and all penalties, charges, costs and interest relating thereto.

Taxes

Means taxes, duties, imposts and fiscal charges of any nature, whether of the *UK* or elsewhere in the world, including value added taxes and stamp and other documentary taxes.

Terms and Conditions

These *Terms and Conditions* as from time to time modified or amended.

Terms and Conditions for Investment Management and Dealing Services

Sections 5 to 49 of these *Terms and Conditions*.

The Manager

In the case of *ISAs*, this refers to the *ISA Manager* which is Investec Wealth & Investment.

The Regulations

In the case of *ISAs*, this refers to the *ISA Regulations*.

UK

United Kingdom.

Unfair

As defined in the *Unfair Terms in Consumer Contracts Regulations 1999*, as amended from time to time.

Overview

The Investec Wealth & Investment Group consists of six regulated entities:

- Investec Wealth & Investment Limited (“IW&I”)
- Investec Wealth & Investment Trustees Limited (“IWITL”)
- Williams de Broe Limited (“WDB”)
- Williams de Broe Private Management Limited (“WDPIM”)
- WDB Asset Management Ltd (“WDBAM”)
- WDB Assetmaster Management Company Limited (“WDB Assetmaster”)

Appropriate controls are in place to manage any conflict of interest between the above parties.

IW&I, IWITL, WDB, WDPIM, WDBAM and WDB Assetmaster are wholly owned subsidiaries of Investec Bank plc. However, the business of the Investec Wealth & Investment Group is managed independently of Investec Bank plc and the Investec Group management does not believe that this relationship creates a material conflict of interest.

The main business of IW&I, WDB and WDPIM is to manage the investments of and advise private investors trusts, charities and small pension funds. In addition IW&I provides financial planning services including Inheritance Tax planning, management of a Venture Capital Trust and is the administrator for Self Invested Pension Plans.

IWITL is the trustee of the Investec Wealth & Investment SIPP, providing self invested personal pension schemes for clients.

WDBAM is an open-ended investment company (“OEIC”) authorised and regulated by the FSA. It has an umbrella structure with seven subfunds, each investing in different market sectors.

WDB Assetmaster is an open-ended investment company (“OEIC”) authorised and regulated by the Central Bank of Ireland. WDB Assetmaster offers a range of multi-asset fund-of-funds designed to meet a variety of differing risk profiles that provide clients with a managed solution to meet their investment requirements.

The following activities and services are not undertaken within the Investec Wealth & Investment Group:

- corporate finance;
- finance arrangements;
- market maker;
- investment research (no proprietary research is undertaken – research information is compiled, based on third party research and freely available market information); or
- proprietary trading (except as required on the managers box for unit trusts and error correction).

Therefore the Investec Wealth & Investment Group does not have the potential conflicts of interest that arise from such services and activities.

Regulation

Under 10.1.10 of the Senior Management Arrangements, Systems and Controls (“SYSC”) Handbook of the FSA rules we are required to establish, implement and maintain an effective conflicts of interest policy encompassing the group. The policy should be relevant to the size and complexity of the firm. This policy details the material conflicts that have been identified and the procedures and measures adopted to manage these conflicts.

In the context of the FSA rules, conflicts of interest are those that arise between:

- the firm and a client; or
- a client and another client

SYSC requires consideration of the following aspects when determining whether a conflict of interest is present:

- Will the firm make a financial gain, or avoid a financial loss, at the expense of the client?
- Will the firm have an interest in the outcome of a service provided to the client, or a transaction carried out on behalf of the client, which is distinct from the client’s interests in that outcome?
- Will the firm have a financial or other incentive to favour the interest of another client or group of clients over the interests of the client?
- Will the firm carry on the same business as the client?
- Will the firm receive from a person other than the client an inducement in relation to a service provided to the client, in the form of monies, goods or services, other than the standard commission or fee for that service

Identification, recording and managing of conflicts

The firm incorporates procedures for the following:

- Identifying conflicts (in accordance with SYSC 10.1.3);
- Record of conflicts (in accordance with SYSC 10.1.6); and
- Managing conflicts (in accordance with SYSC 10.1.7).

Material conflicts that have been identified and how they are managed are highlighted in Table 1 opposite.

Table 1 – Register of Material Conflicts

Material Conflict	Procedures and measures
Investec Wealth & Investment Group employees manage the assets of the Investec Wealth & Investment Group Pension Scheme. There may be a perception that there is a risk that these assets are managed in a more preferential manner than assets of other clients.	Existing internal procedures ensure that all clients are treated at arms length. The Trustees of the pension scheme oversee the management of the staff pension fund which may be outsourced if desired. Two trustees are appointed by the members themselves.
Employees who recommend or deal on a discretionary basis may select products that are managed within the Investec Group. This could be perceived to be inappropriate unless done for the benefit of the client. In addition, Investec shares are traded. These may result in increased revenues or share price for the Group. We will at times be invited to participate in voting that relates to Investec shares. This may result in the perception that the Investec Wealth & Investment Group is acting in the company's and not the client's best interest.	An approved list of recommended products is created by the collectives committee established to review products in the market. The Investec funds will only appear on this list if the performance is comparable to peer products. There are effective Chinese walls in place between the Investec Group and its subsidiary companies which should not affect the ability of Investec Wealth & Investment Group to advise on Investec shares or effect the way in which we vote. We will only vote when required to do so and if a conflict does arise we may abstain from voting. In some cases, we may not be able to advise on or use our discretion to transact shares in companies in which the Investec concert party (of which Investec Wealth & Investment Group is a member) hold close to 30% of the issued share capital.
Investec Wealth & Investment Group employees may undertake personal account dealing. There is a risk that the timing of personal deals could benefit employees to the detriment of clients.	A full Personal Account Dealing Notice is in place and employment terms and conditions require adherence to documented procedures. This procedure includes pre-notification of the deal. When insufficient liquidity exists client orders will be prioritised ahead of Investec Wealth & Investment Group employees' transactions.
Investec Wealth & Investment Group employees may act in more than one capacity for clients or the firm. This could mean that they act in a way that may be beneficial to the firm's revenues at the expense of the client's interests.	Employment terms and conditions require an employee to disclose all business interests. These activities must not interfere or conflict with the duties of Investec Wealth & Investment Group employees. A record of potentially conflicting duties is maintained to ensure that appropriate procedures are in place to manage such occurrences.
Employees of the Investec Wealth & Investment Group may receive gifts, hospitality or benefits from outside of the Investec Group. There is a risk that these may influence the behaviour of the employee or the firm to the detriment of clients or the Group.	A Gifts and Inducement Policy is in place to which Employees are required to adhere. A Gifts Register is maintained that is periodically reviewed by compliance.
IWIN may receive trail commission and other benefits from product providers. There is a risk that these may unduly influence the investment decision to the detriment of the client.	The product will normally be included within the approved list of collective investments that is created by a committee, based on performance, amongst other considerations. Where funds are purchased on behalf of clients which do not appear on the recommended list, investment managers must document why the transaction and product is in the best interests of their client. The company policy is to buy institutional units (which do not attract trail commission). Commission agreements are not disclosed to those that select products or services on behalf of the client. Therefore the selection of investments, on behalf of clients, will not be influenced by these factors.
Independent advisers within the company may decide to refer clients internally for other services provided by the Investec Group.	Advisers must consider whether the service being provided is suitable and meets the required standards and criteria. Factors considered include service quality and charging structure. Independent advisers are required to undertake a fair and unbiased analysis of the whole market before making an investment recommendation into a retail investment product.
Investec Wealth & Investment Options Department execute underlying trades on behalf of a listed fund but investment managers may purchase the fund independently for their clients' portfolios where suitable.	The options department are a standalone team. All holders of the fund were notified of the potential conflict when Investec Wealth & Investment signed the arrangement to carry out deals on behalf of the fund. The client name is coded within the system.

General Information

The intention of this document is to set out our understanding of the obligations regarding Best Execution under Markets in Financial Instruments Directive (“MiFID”) and to explain how we intend to fulfil these obligations.

The core of our Best Execution policy is to ensure that all our clients are treated fairly. This means that the same procedures and safeguards will be in place for all of our clients, irrespective of the type of service that they receive from us.

Investec Wealth & Investment (“IW&I”) has made a commitment that we will not carry out principal business (i.e. dealing for our own account) apart from in exceptional circumstances (such as correcting an error). Thus, we do not have any conflict of interest with any of our clients’ dealings.

IW&I is a member of various exchanges: London Stock Exchange (“LSE”), PLUS SX (previously Plus markets) and NYSE Liffe. We have access to other exchanges through our market counterparties. Wherever possible, transactions will be carried out and reported on a regulated market (“on-market”); however certain transactions (for example some Bonds) cannot always be conducted “on-market”. In some cases where a Bond or Gilt is also listed on-market we will use the price as reference and when necessary will trade “on-market” or “off-market”.

Transactions that are carried out off-market when they are normally carried out on-market will require prior express consent from the client. In some circumstances and, when acting in your best interest, we may carry out transactions off-market.

By signing our agreement, you expressly consent to us carrying out off-market transactions on your behalf.

Best Execution does not apply to transactions in currencies, commodities and unit trusts/mutual funds. Most currency trades and commodities are normally transacted in a highly liquid environment but trades are not published. Unit trusts/mutual funds are normally traded directly with the manager at a fixed price on any given dealing day; these prices are usually available in financial sections of newspapers or on the managers’ own websites.

Best Execution/Best Possible Result

There is no formal definition of Best Execution but it refers to an obligation to transact deals on the right terms for our clients.

We “...must take all reasonable steps to obtain the best possible result, taking into account price, costs, speed, likelihood of execution and settlement, size, nature or any other consideration relevant to the execution of the order”. Source MiFID Article 21.1.

We refer to this obligation as the “Best Possible Result”.

Guidelines have been established for IW&I dealers so that in each class of security there is a procedure for achieving and recording Best Execution. In most equity markets, trade information is publicly available on electronic providers such as Proquote International, Bloomberg and Reuters; in other markets where there is no publicly available trade data, the IW&I dealers will have access to details on how Best Execution has been achieved.

When the dealing desk receives an order, it will prioritise the relevant factors in considering and achieving the Best Possible Result, including any specific client instructions (e.g. price limit); relevant factors could include the liquidity and volatility of the stock, width of the buy/sell spread and accessible markets and dealing platforms. If all relevant factors are considered, our obligations on a consistent basis will be fulfilled and Best Possible Result should be achieved.

IW&I accepts full responsibility to achieve Best Execution on all eligible orders; however, if specific instructions are provided by the client and IW&I agrees to act on these, then our obligation to achieve Best Execution may be limited by such instructions.

Best Possible Result can still be satisfied if IW&I aggregates several client orders into one larger order.

Equities – UK

IW&I dealers use a range of methods to execute a UK equity order:

- (a) Telephone negotiation. The dealers speak to market makers or other broker members of the London Stock Exchange.
- (b) Electronic order books. The principal ones are SETS and SETSmm, both set up by the London Stock Exchange to provide anonymous order books in all but the smallest UK shares.
- (c) Retail Service Providers (RSPs). RSPs are market makers who enable us to deal with them electronically.
- (d) Agency crosses. This is when IW&I match a buyer and seller in-house and the deal is struck at a mutually agreeable price.
- (e) Electronic Algorithmic Platforms. These provide access to various market venues and crossing networks.

Orders passed in UK equities to the dealing desk that fit certain criteria can be transacted through our “Auto Execution” facility; they are then traded automatically and instantly via an RSP who is willing to accept the trade. The transaction will be covered by the usual Best Execution obligations.

Equities – Non-UK

There are extra considerations when dealing in non-UK equities. IW&I is not currently a member of any non-UK exchanges; our obligations of Best Execution are shared with our market counterparties who transact on our behalf in non-UK markets. In order to achieve Best Possible Result, we must also take into account any local execution charges (commission, stamp duty etc) that will be included in the final price to the client.

Bonds – Gilts, Eurobonds etc

Bonds include Government bonds (e.g. Gilts), Eurobonds, Floating rate notes (FRN), Zero coupon bonds and other similar debt structures. Most of these instruments cannot be transacted on-market and in these cases we will continue to operate on your behalf off-market. Some Gilts and Bonds are now also tradable on the London Stock Exchange and we will use the price as reference and when necessary trade on-market or off-market.

Prices in the most actively traded bonds are available on information providers such as Bloomberg. In many instances, trades can then be effected by a direct electronic link to the best price from all the contributing market makers with which IW&I has a relationship. We are also able to use other specialist electronic platforms (such as Bondscape) which formulate the best bids and offers from their participants. In some circumstances, dealing prices will be negotiated with market makers with additional reference to any available electronically displayed prices.

Liquidity varies between different bonds: for some bonds, there may only be one market maker and situations such as this might limit our ability to deal on a narrow buy/sell price spread.

Because there is usually no permanent historical record of intraday price quotations of bonds, IW&I dealers will endeavour to retrieve records of bond prices from sources available.

Traded Options and Futures

Options are a highly specialist area and an additional risk warning must also be signed before any transaction is entered into. Traded options are listed and reportable on exchanges such as NYSE Liffe and the obligations for Best Execution will continue to be honoured.

Options listed on NYSE Liffe will be executed either directly with a market maker or passed to another member firm to act on our behalf if we believe that this will achieve the Best Possible Result.

Over the Counter Derivatives (OTC) – e.g. Currency Options

OTC transactions are by definition not transacted on-market and are generally limited to only one liquidity provider. The pricing of OTC instruments are difficult to demonstrate if the liquidity provider chooses not to display the price in the public arena and therefore the Best Possible Result can only be achieved with limited supporting evidence. In some cases, using a single liquidity provider may be the only way to execute an order and hence trading at that provider's price may be the only way to comply with the client's instruction.

Money Market Instruments e.g. Certificates of Deposit

These instruments cannot be transacted on-market and we will continue to operate on your behalf off-market.

Other Instruments/Securities

On rare occasions, we will be required to trade in an instrument not covered by the above categories: any trade could be restricted to a limited number of liquidity providers that IW&I has connections with. IW&I will assume that Best Execution was achieved by reference to the prices provided by those liquidity providers and any relevant market display providers.

Limits

Limits passed by clients will be accepted on a reasonable endeavours basis. The contract note for the trade will disclose that a client's limit was passed. Any client limit will normally only be accepted until the end of the trading period for the day it was passed.

Timely Executions

To achieve timely execution, once IW&I has agreed, or decided in its discretion to execute a client order, it must do so as soon as reasonably practicable, unless IW&I has taken reasonable steps to ensure that postponing the execution of a client order is in the best interests of the client.

In-house Crosses (Agency crosses)

Crosses of UK listed stock between two clients at a mutually agreeable price will be deemed to have taken place on-market. Crosses of non-UK stock between two clients at a mutually agreeable price will be deemed to have taken place off-market.

Allocation

IW&I will usually allocate on a pro rata basis any partially completed orders that are received from different clients in the same stock; if this allocation would result in uneconomic or unsuitable holdings for the clients concerned, we may allocate other than on a pro rata basis. In every instance that an allocation other than pro rata is used then IW&I must take reasonable steps to ensure that any allocation is in the best interest of all clients concerned.

Order Priority

Client orders will normally be executed in the same order as they were received except where there are special conditions such as price limits or limited liquidity: such conditions might require extra time to ensure achievement of Best Possible Result. Orders that are tradeable under the Auto Execution facility will normally be executed immediately, even though the dealers may already be working orders in the same stocks. It is deemed acceptable to treat these trades separately and therefore Auto Executions do not need to be averaged with any other orders.

Time of Execution

Any execution time shown on the contract note will be stated as UK time. If the order is completed in a series of transactions and shown on the contract note as an averaged price there is no requirement to disclose the execution times. Trade times for an averaged price transaction are available upon request.

System Failures

In the unlikely event of system failure, clients who contact IW&I during this time to pass deal instructions will be informed; any instructions received will be accepted on the basis that they will be executed once the relevant system has been restored.

Policy Review

IW&I will review its Best Execution policy annually and, if necessary, additionally on an ad hoc basis. A list of Execution Venues we use will be made available on request.

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Belfast 02890 321002
Birmingham 0121 232 0700
Bournemouth 01202 208100
Cheltenham 01242 514756

Edinburgh 0131 226 5000
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Glasgow 0141 333 9323
Guildford 01483 304707
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