

Adviser MPS Terms & Conditions



These Conditions govern the respective rights and obligations of Verbatim Discretionary Managers, a trading name of DMS Investment Management Services (UK), company number 03692681 with a registered office at 2nd Floor, 20-22 Bedford Row, Holborn, London, WC1R 4EB and the Advisor firm taking part in the referral scheme (“you” or “your”). These Conditions apply to your access to the Platform whereby your customer’s will have access to a discretionary management service.

Definitions and interpretation

1. In these Conditions the following definitions apply:

Adviser means the individual appropriately authorised within the Adviser Firm to advise customers in regards to the provision of the Services	Force Majeure means an event or sequence of events beyond a party’s reasonable control (after exercise of reasonable care to put in place robust back-up and disaster recovery arrangements) preventing or delaying it from performing its obligations under the Agreement including an act of God, fire, flood, lightning, earthquake or other natural disaster; war, riot or civil unrest; interruption or failure of supplies of power, fuel, water, transport, equipment or telecommunications service; or material required for performance of the Agreement; strike, lockout or boycott or other industrial action except strikes or other industrial disputes involving the Supplier’s or its suppliers’ workforce;
Adviser firm means the appropriately authorised business entity signing these terms	FCA means The Financial Conduct Authority in the United Kingdom or any replacement authority or authorities from time to time
Affiliate means any entity that directly or indirectly Controls, is Controlled by or is under common Control with, another entity;	FCA Rules means the handbook of rules, guidance and evidential provisions issued by the FCA as may be amended from time to time;
Application Form means a form completed and signed by the Adviser applying to subscribe for the Service and in doing so accepting these Terms and Conditions;	FSMA means the Financial Services and Markets Act 2000
Bribery Laws means the Bribery Act 2010 and associated guidance published by the Secretary of State for Justice under the Bribery Act 2010 and all other applicable UK legislation, statutory instruments and regulations in relation to bribery or corruption;	GDPR means the General Data Protection Regulation, Regulation (EU) 2016/679;
Business Day means a day other than a Saturday, Sunday or bank or public holiday in England;	Intellectual Property Rights means copyright, patents, know-how, trade secrets, trademarks (marks), trade names, design rights, rights in get-up, rights in goodwill, rights in confidential information, rights to sue for passing off, domain names and all similar rights and, in each case:
Conditions means the terms and conditions of set out in this document;	MPM means a managed portfolio investment firm, appointed by VDM from time to time, to establish one or more managed portfolios for the Service;
Confidential Information means any commercial, financial or technical information, information relating to the Services, plans, know-how or trade secrets which is obviously confidential or has been identified as such, or which is developed by a party in performing its obligations under, or otherwise pursuant to the Agreement;	Platform The means by which the Services are provided to the Adviser Firms which enables the Adviser to view and manage Customers’ investments and products;
Control has the meaning given to it in section 1124 of the Corporation Tax Act 2010;	Personal Data has the meaning given to that term in Data Protection Laws;
Customer means a person (including, where relevant, trustees or corporate customers) who has appointed the Adviser Firm to provide them with advice;	Services means: the managed portfolios provided by VDM, the managed portfolio manager and other third parties, where the customer’s funds are invested to match a managed portfolio as selected by the Adviser Firm and the customer
Data Protection Laws means, as binding on either party or the Services: the GDPR; the Data Protection Act 2018; the Directive 2002/58/EC (ePrivacy Directive) and/or the Privacy and Electronic Communications (EC Directive) Regulations 2003; any laws which implement any such laws; any laws that replace, extend, re-enact, consolidate or amend any supervisory authority relating to such Data Protection Laws (in each case whether or not legally binding);	VDM Means Verbatim Discretionary Managers, a trading name of DMS Investment Management Services (UK), company number 03692681 with a registered office at 2nd Floor, 20-22 Bedford Row, Holborn, London, WC1R 4EB

unless the context requires otherwise:

- 1.1. any clause, schedule or other headings in these Conditions is included for convenience only and shall have no effect on the interpretation of the Conditions;
 - 1.2. a reference to a 'party' means either VDM or the Adviser Firm and includes that party's personal representatives, successors and permitted assigns;
 - 1.3. a reference to a 'person' includes a natural person, corporate or unincorporated body (in each case whether or not having separate legal personality) and that person's personal representatives, successors and permitted assigns;
 - 1.4. a reference to a gender includes each other gender;
 - 1.5. words in the singular include the plural and vice versa;
 - 1.6. any words that follow 'include', 'includes', 'including', 'in particular' or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;
 - 1.7. a reference to 'writing' or 'written' includes any method of reproducing words in a legible and non-transitory form (including email);
 - 1.8. References to any statute, statutory provision or statutory instrument include a reference to that statute, statutory provision or statutory instrument together with all rules and regulations made under it or by them all as from time to time amended, consolidated or re-enacted.
- 2. Application of these Conditions**
- 2.1. These Conditions supersede any previously issued Conditions relating to this Service.
 - 2.2. No variation shall be binding unless expressly agreed in writing and executed by a duly authorised signatory on behalf of each party.
 - 2.3. These Conditions take effect on the date of signing the Application Form and will, subject to clause 20 or 19, continue until either Party gives written notice to the other Party of its intention to terminate the agreement.
- 3. The Adviser Firm's relationship with the Customer**
- 3.1. The Adviser Firm acts as an agent for the Customer in relation to all aspects of business placed or serviced by an Adviser on the Platform. For the avoidance of doubt, VDM shall not treat the Customer as its Customer in connection with the Services.
 - 3.2. The Adviser Firm acknowledges and accepts that it holds sole responsibility for :
 - 3.2.1. advising the Customer in relation to the use of the Service;
 - 3.2.2. ensuring the Service is suitable and meets the Customer's needs both initially and on a continuing basis.
 - 3.2.3. accounting and settling all VAT on any fees or charges incurred in using the Service.
 - 3.2.4. reporting to the Customer in respect of the performance of the Service.
 - 3.3. During this Agreement, the Adviser Firm warrants and represents to VDM that:
 - 3.3.1. It shall be responsible for ensuring that information provided from the Customer and/Adviser Firm to VDM shall be kept accurate, complete and up to date to ensure this Agreement remains suitable.
 - 3.3.2. it will make all materials and information available to the Customer, to allow the Adviser firm and VDM to comply with their obligations under the applicable laws
 - 3.3.3. it shall give each Customer full disclosure of all risks, material interests and potential conflicts of interest associated with using the Service
 - 3.3.4. it will relay to the Customer the full warranties under this Agreement.
 - 3.3.5. it has made the Customer aware that any activity shall be based on t the basis of the adviser's advice and recommendation.
 - 3.3.6. it is aware of it's responsibility for ensuring anti money laundering checks are carried out the Customer.
 - 3.3.7. The Customer will be informed of it's complaint rights relating to the services provided by the Adviser Firm under this Agreement. Further, a copy of the Adviser firm's complaints management policy is available on request to the Customer and will otherwise be provided in accordance with the FCA Rules.
 - 3.3.8. Notwithstanding any other provision in these Conditions, no warranty, assurance or undertaking is given by VDM as to the performance, returns, increase in or retention of value or profitability of any of the Customer's portfolios (or any part of it)
- 4. Appointment, Authorisation and Professional Client Status**
- 4.1. At all times, the Adviser Firm represents to VDM that it is authorised and regulated by the FCA.
 - 4.2. The Adviser Firm acknowledges that it is solely responsible for ensuring that it acts within the authorisations and scope of it's permitted business with the FCA.
 - 4.3. If the Adviser Firm ceases to be authorised by the FCA, the Adviser Firm must notify VDM as soon as is practical VDM reserves the right to withdraw any and/or all services under these terms.
 - 4.4. The Adviser Firm's FCA authorisation shall entitle VDM to treat the Adviser Firm as acting as a professional client. For the avoidance of doubt, VDM is entitled to assume that the Adviser Firm have the level of experience and knowledge necessary to understand the risks associated with the Services.
- 5. Complaints, Adviser Firm and VDM relationship**
- 5.1. In accordance with clause 3.1 the Adviser Firm acknowledges and accepts that VDM shall not offer the Customer advice on investment (including the merits, suitability or otherwise of any transactions or investments), legal matters or tax.
 - 5.2. The parties agree that:
 - 5.2.1. they have full power and authority to enter and perform these terms and other documentation relating to the business contemplated by it;
 - 5.2.2. the entry into and performance of these terms does not (and will not during the term of these terms) violate or conflict with any law or regulation applicable to them;
 - 5.2.3. they have, and will continue to hold and will comply with (and will ensure that personnel have and continue to hold and will comply with), all approvals, consents, licences, concessions, certificates and statutory agreements required from any competent authority (including the FCA) or third party necessary for carrying out any of its obligations under these terms

- 5.3. The parties agree to act in accordance with the FCA guidelines on complaints handling, issued from time to time.
- 5.4. VDM will be responsible for dealing with Customer complaints in relation to any aspect concerning the discretionary management and investment performance and
- 5.5. The Adviser Firm shall be responsible for dealing with all other complaints, including but not limited to, the suitability of advice.
- 5.6. Where a party receives a complaint that it is not responsible for dealing with, it shall promptly notify the other party and the parties, acting in good faith, shall agree who is best to deal with the relevant complaint.

6. Adviser Firm obligations

- 6.1. During the term of this Agreement, the Adviser Firm warrants and represents:
 - 6.1.1. any information provided to VDM is true, accurate and complete in all material respect. Should any of the information change, the Adviser Firm must notify VDM as soon as possible.
 - 6.1.2. that it will take all necessary steps to ensure that each Adviser complies with these terms (as amended from time to time).
- 6.2. The Adviser Firm shall as soon as practicable:
 - 6.2.1. provide such information as VDM may reasonably require about or relating to the Customer.
 - 6.2.2. provide information to VDM, if a breach of these terms or any other applicable law or regulation has occurred;

7. VDM obligations

- 7.1. VDM warrants that it shall:
 - 7.1.1. complete its obligations under this contract with reasonable skill and care using appropriately qualified and skilled personnel capable of providing the Services in respect of which they are engaged.
 - 7.1.2. it shall not directly engage with Customers without the consent of the Adviser Firm other than in circumstances where it may be required to do so.
- 7.2. For the avoidance of doubt, VDM does not warrant the suitability of any software that is downloaded in connection with the Service and the Platform. No liability shall be accepted for any problems with the adviser firm's IT systems that may arise as a result.
- 7.3. Save as expressly provided in this Agreement, no other representation or warranty, express or implied, is made by either Party. Each Party shall promptly notify the other Party if any representation ceases to be true, accurate or complete in any material respect.

8. Discretionary Services

- 8.1. Specific transactions may be executed in order to maintain investments held in Customer's account, in line with the Services selected on the Platform (Discretionary service).
- 8.2. With the exception of any instructions to divest received, VDM shall have complete discretion in relation to the composition and asset allocation of and shall act as VDM judges appropriate in relation to the composition of each discretionary service.
- 8.3. The Adviser Firm agrees and acknowledges that neither it nor the Customer will be placing investment instructions, as all investment instructions in relation to the discretionary

investment account will be made by either VDM or a MPM acting on VDM's behalf. The Adviser Firm acknowledges that where investment instructions are carried out by the platform they will be done on the instruction of VDM and will be carried out by the platform in accordance with their execution policy.

- 8.4. The composition of any discretionary investment account will be based on a managed portfolio overlooked by a managed portfolio manager appointed by VDM and selected by the Adviser for the Adviser Firms customer.
- 8.5. Where discretionary investment accounts have limits on the amounts which may be contributed or subscribed during a set period (either absolute limits or limits on favourable tax treatment), it is the Adviser Firm's responsibility to check that these limits are not exceeded, including but not limited to other products and tax wrappers which is not part of the Service or the Discretionary Service.

9. Intellectual Property Rights

- 9.1. VDM shall own all Intellectual Property Rights in connection with the Service and any additional marketing materials.
- 9.2. The parties agree to notify the other if it becomes aware of any suspected misuse, by any party, of the Intellectual Property Rights of the other or any activity by a third party which is connected to these Conditions and which may be adverse to the activities of either party.
- 9.3. The parties acknowledge and agree that, except as expressly provided in these Conditions, it does not by virtue of these Conditions obtain any rights to use, or any other rights in or to, any Intellectual Property Rights of the other Party.
- 9.4. The Adviser Firm agrees that it will:
 - 9.4.1. not damage or diminish the goodwill or reputation attached to VDM's Intellectual Property rights;
 - 9.4.2. notify VDM as soon as it becomes aware of any improper or unlawful use or actual, alleged, threatened or potential infringement of the Intellectual Property and shall, cooperate and assist VDM and/or any Affiliate and their licensors (if any) in any action, claim or proceedings brought or threatened in respect of the party's Intellectual Property;
 - 9.4.3. not take any action which might invalidate the Intellectual Property Rights; and
 - 9.4.4. immediately cease to use the Intellectual Property upon termination or expiry of the Contract for any reason.

10. Charges

- 10.1. For the avoidance of doubt, the Customer will be liable for: costs including but not limited to any brokerage charges, commissions, transfer fees, registration fees, exchange fees, settlement fees, and stamp duty, tax or other fiscal liabilities or any other transaction related expenses and fees arising out of transactions in the Customer's portfolio. The Adviser Firm shall make the Customer aware of this and shall separately provide information on costs and associated charges to the Customer including all information required by MiFid to be provided in such disclosures.
- 10.2. All charges (including but not limited to any adviser remuneration) shall be paid by the Customer and shall be deducted from the customer's account held on the platform on a monthly basis in arrears.

- 10.3 Any ad hoc charges will be charged on a case-by-case basis as may be agreed from time to time by VDM and the Adviser Firm (acting on the Customer's behalf);
- 10.4 The Adviser Firm shall ensure that there are sufficient cash funds in each account to meet all monthly charges that may be due or payable by the Customer.
- 10.5 The Adviser Firm shall pay (or procure payment through the Customer's appointed platform) to VDM a fee, accruing daily, equal to 25 basis points per annum of the cumulative value of assets (including cash) plus VAT which each Customer has invested in the Service.
- 10.6 All fees and expenses payable pursuant to this clause 10 shall be paid together with VAT properly chargeable thereon. .
- 11. Change Control**
- 11.1. If VDM wishes to make a change to this Agreement at any time, it shall provide reasonable written notice to the Adviser Firm and shall include such information necessary to enable the Adviser to assess the impact of the proposed change.
- 11.2. If the Adviser Firm does not accept the proposed change as detailed in clause 11.1, the Adviser Firm shall be entitled to provide notice to terminate This Agreement prior to the proposed change takes effect.
- 12. Anti-bribery**
- 12.1. For the purposes of this clause 10 the expressions 'adequate procedures' and 'associated with' shall be construed in accordance with the Bribery Act 2010 and legislation or guidance published under it.
- 12.2. Each party shall comply with applicable Bribery Laws including ensuring that it has in place adequate procedures to prevent bribery and use all reasonable endeavours to ensure that:
- 12.2.1. all of that party's personnel;
- 12.2.2. all others associated with that party; and
- 12.2.3. all of that party's subcontractors; involved in performing the Agreement so comply.
- 12.3. Without limitation to clause 12.2, neither party shall make or receive any bribe (as defined in the Bribery Act 2010) or other improper payment, or allow any such to be made or received on its behalf, either in the United Kingdom or elsewhere, and shall implement and maintain adequate procedures to ensure that such bribes or payments are not made or received directly or indirectly on its behalf.
- 12.4. Each party shall immediately notify the other as soon as it becomes aware of a breach or possible breach of any of the requirements in this clause 12.
- 12.5. Breach of this clause 10 shall be deemed a material breach and shall entitle the non-breaching party to terminate the Agreement immediately.
- 13. Anti-slavery**
- 13.1. Each party undertakes that:
- 13.1.1. neither the party nor any of its officers, employees, agents or subcontractors has:
- (a) committed an offence under the Modern Slavery Act 2015 (an MSA Offence); or
- (b) been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or
- (c) is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;
- 13.1.2. it shall comply with the Modern Slavery Act 2015;
- 13.1.3. it shall notify the other party immediately in writing if it becomes aware or has reason to believe that it, or any of its officers, employees, agents or subcontractors have breached or potentially breached any of the obligations under clause 13.1. Such notice should set out full details of the circumstances concerning the breach or potential breach of the party's obligations.
- 13.2. Breach of clause 13 shall be deemed a material breach of the Agreement and shall entitle the non-breaching party to terminate the Agreement with immediate effect.
- 14. Anti-tax evasion facilitation**
- 14.1. For the purposes of this clause 14:
- 14.1.1. the expressions 'prevention procedures', 'UK Tax Evasion Offence', 'Foreign Tax Evasion Offence' and 'facilitation of evasion of tax' shall be construed in accordance with Part 3 of the Criminal Finances Act 2017 (CFA 2017) and guidance published under it.
- 14.2. Each party undertakes that it shall:
- 14.2.1. not engage in any activity, practice or conduct which would constitute either:
- (a) A UK Tax Evasion Offence; or
- (b) A Foreign Tax Evasion Offence;
- 14.2.2. have and shall maintain in place throughout the term of the Agreement such prevention procedures as are both reasonable to prevent the facilitation of evasion of tax by another person (including without limitation employees of the party) and to ensure compliance with this clause 14;
- 14.2.3. promptly report to the other party any request or demand from a third party to facilitate the evasion of tax within the meaning of Part 3 of the CFA 2017, in connection with the performance of the Agreement.
- 14.3. Each party shall ensure that any person associated with the parties who is performing Services in connection with the Agreement does so only on the basis of a written Agreement which imposes on and secures from such person terms equivalent to those imposed on the parties to the Agreement. The parties shall be responsible for the observance and performance by such persons and shall be directly liable to the non-breaching party for any breach by such persons.
- 14.4. Breach of this clause 14 shall be deemed a material breach and shall entitle the non-breaching party to terminate the Agreement immediately.
- 15. Limitation of liability**
- 15.1. The extent of the each parties liability under or in connection with the Agreement (regardless of whether such liability arises in tort, Agreement or in any other way and whether or not caused by negligence or misrepresentation) shall be as set out in this clause 15.

- 15.2 Subject to clauses 15.3 and 15.4, neither party shall be liable for consequential, indirect, special losses or any of the following (whether direct or indirect):
- 15.2.1 loss of profit;
 - 15.2.2 loss of or corruption to data;
 - 15.2.3 loss of use;
 - 15.2.4 loss of production;
 - 15.2.5 loss of Agreement;
 - 15.2.6 loss of opportunity;
 - 15.2.7 loss of savings, discount or rebate (whether actual or anticipated).
- 15.3. The limitations of liability set out in clause 15.3 shall not apply in respect of any indemnities given by either party under the Agreement.
- 15.4. Notwithstanding any other provision of the Agreement, the liability of the parties shall not be limited in any way in respect of the following:
- 15.4.1. death or personal injury caused by negligence;
 - 15.4.2. fraud or fraudulent misrepresentation;
 - 15.4.3. any other losses which cannot be excluded or limited by applicable law;
 - 15.4.4. any losses caused by wilful misconduct.
 - 15.4.5. Any duty or liability which Agreement shall exclude or restrict any duty or liability which the Manager may have to the Client under FSMA or the FCA Rules
- 15.5. For the avoidance of doubt VDM shall not be liable:
- 15.5.1. to the Customer or the Adviser Firm or the Adviser for any default of any eligible counterparty, bank, custodian, sub-custodian or other entity which holds money, investments or other documents of title on behalf of the Customer with or through whom transactions on behalf of the Customer are conducted.
 - 15.5.2. the acts or omissions of any fund manager or third party provider whose products are available on the Platform.
 - 15.5.3. for any error of judgement or any loss suffered by Customer, the Adviser, Adviser Firm in connection with the Services VDM provide and/or Platform unless such loss arises from negligence, wilful default or fraud.
- 15.6. The Adviser Firm shall indemnify on demand and hold harmless VDM from and against:
- 15.6.1. any and all losses, demands, claims, damages, costs, expenses (including consequential losses and loss of profit, legal costs and expenses and VAT thereon) and liabilities suffered or incurred, directly or indirectly, as a result of the Adviser Firm of the adviser breach of these terms.
 - 15.6.2. Any breach by the adviser firm of any of these terms, the regulations or any other applicable law or regulation or the adviser firm's fraud, negligence or wilful default;
 - 15.6.3. Introduction of business beyond the Adviser Firm's authorisation;
 - 15.6.4. Provision of incorrect information by the adviser firm;
 - 15.6.5. Any action brought against VDM by a customer as a result of the Adviser Firm's failure to fulfil its obligations to the customer, howsoever arising (including the adviser firm's breach of the regulations or any other applicable law) and for;
 - 15.6.6. Any abuse or misuse of the Service by the Adviser Firm, the Customer and/or any third party
- 15.7. The indemnity contained in clause 15.6 will continue after the Adviser Firm ceases to act in relation to the Service either generally or in respect of a Customer.
- 16. Confidentiality and announcements**
- 16.1. Each party shall keep confidential all Confidential Information of the other party and shall only use the same as required to perform the Agreement. The provisions of this clause shall not apply to:
- 16.1.1. subject to clause 16.4, any information which was in the public domain at the date of the Agreement;
 - 16.1.2. subject to clause 16.4, any information which comes into the public domain subsequently other than as a consequence of any breach of the Agreement or any related agreement;
 - 16.1.3. subject to clause 16.4, any information which is independently developed by a party without using information supplied by the other party or by any Affiliate of that party; or
 - 16.1.4. any disclosure required by law or a regulatory authority or otherwise by the provisions of the Agreement.
- 16.2. This clause shall remain in force for a period of three years from the date of the Agreement and, if longer, two years after termination of the Agreement.
- 16.3. Subject to clause 16.4, the parties shall not make any public announcement or disclose any information regarding the Agreement, except to the extent required by law or regulatory authority or by mutual written approval from both parties.
- 16.4. To the extent any Confidential Information is Personal Data such Confidential Information may be disclosed or used only to the extent such disclosure or use does not conflict with the provisions of clause 16.
- 17. Communications and Taping**
- 17.1. Either Party may record or monitor telephone conversations and other communications with or by the other Party (including mail, emails). Both Parties agree that the other may deliver copies or transcripts of such recordings to any court or competent regulatory authority. A copy of any such conversations with either Party and communications with either Party will be available on request for a period of five years (or, where requested by the FCA, for a period of up to seven years) from the date when that record is made.
- 17.2. In order to utilise the right under 17:
- 17.2.1. the parties warrant to the other that it has such consents from its staff as may be necessary for this purpose.
 - 17.2.2. The Adviser firm warrants that it shall give such consents from its Customers as may be necessary for this purpose.
- 17.3. The Adviser Firm will communicate with the Customer (in English) and will communicate with the Customer as considered appropriate, including through the Adviser Firm's website, by email or otherwise.

18. Data Protection

- 18.1. The parties agree throughout the duration of this Agreement, both will retain throughout the continuance of the performance of the Service, all necessary notifications and registrations with the Information Commissioner's Office as required by the Data Protection Laws.
- 18.2. The Adviser Firm represents, warrants and undertakes that it shall at all times comply with the Data Protection Laws, including, without limitation, in respect of processing personal data (as defined in the Data Protection Laws) concerning Customers and/or your employees and agents.
- 18.3. In the event that the performance of obligations under these Terms and Conditions shall require the processing of or access to personal data (as that term is defined in the Data Protection Laws), DMS and the Adviser confirm that they will at all times comply with the provisions and obligations imposed on them and all other Applicable Laws and Regulatory Requirements relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner.
- 18.4. The Adviser Firm acknowledges and agrees that by using the Services and the Platform, it may result in personal data in being transferred to an entity based outside of the EEA.

19. Force Majeure

- 19.1. A party shall not be liable if delayed in or prevented from performing its obligations due to Force Majeure, provided that it:
 - 19.1.1. promptly notifies the other of the Force Majeure event and its expected duration; and
 - 19.1.2. uses best endeavours to minimise the effects of that event.
 - 19.1.3. Neither VDM nor the Advisers shall be liable for any failure or delay in performing any of its obligations under or pursuant to these Terms and Conditions, and any such failure or delay in performing its obligations will not constitute a breach of these Terms and Conditions, if and to the extent that such failure or delay is due to an event of Force Majeure.
 - 19.1.4. Neither Party shall be in breach of these Terms and Conditions nor liable for delay in performing, or failure to perform, any of its obligations under these Terms and Conditions if such delay or failure result from events, circumstances or causes beyond its reasonable control (including, without limitation, any restriction of access to, modification and/or withdrawal of all or any part of the Platform by the provider of such Platform, interruption or delay in the performance of VDM's obligations resulting from industrial disputes, acts or regulations of any governmental or supra-national bodies or authorities, breakdown, failure or malfunction or any lack of communication or computer services).

20. Termination and Expiry

- 20.1. This Agreement may be terminated by either party giving a minimum of 3 (three) months' notice in writing to the other party.
- 20.2. Either party may terminate the Agreement at any time by giving notice in writing to the other party if:

- 20.2.1. the other party commits a material breach of the Agreement and such breach is not remediable;
- 20.2.2. the other commits a material breach of the Agreement which is not remedied within 30 days of receiving written notice of such breach;
- 20.2.3. any consent, licence or authorisation held is revoked or modified such that the party is no longer able to comply with its obligations under the Agreement or receive any benefit to which it is entitled.
- 20.2.4. stops carrying on all or a significant part of its business, or indicates in any way that it intends to do so;
- 20.2.5. is unable to pay its debts either within the meaning of section 123 of the Insolvency Act 1986 or if the parties reasonably believes that to be the case;
- 20.2.6. becomes the subject of a company voluntary arrangement under the Insolvency Act 1986;
- 20.2.7. has a receiver, manager, administrator or administrative receiver appointed over all or any part of its undertaking, assets or income;
- 20.2.8. has a resolution passed for its winding up;
- 20.2.9. has a petition presented to any court for its winding up or an application is made for an administration order, or any winding-up or administration order is made against it;
- 20.3. Termination or expiry of the Agreement shall not affect any accrued rights and liabilities of the parties at any time up to the date of termination.

21. Dispute resolution

- 21.1. Any dispute arising between the parties out of or in connection with the Agreement shall be dealt with in accordance with the provisions of this clause 21.
- 21.2. The dispute resolution process may be initiated at any time by either party serving a notice in writing on the other party that a dispute has arisen. The notice shall include reasonable information as to the nature of the dispute.
- 21.3. Without prejudice to any right the Parties may have to seek injunctive relief or any such other interim relief, if a dispute arises between the Parties in connection with these Terms and Conditions, the Parties (or any persons appointed to negotiate on their behalf) shall use reasonable endeavours to settle it by negotiation.
- 21.4. The specific format for the resolution of the dispute shall be left to the reasonable discretion of the parties, but may include the preparation and submission of statements of fact or of position.
- 21.5. If the dispute has not been resolved within 30 days (or equivalent) then the matter may be referred to mediation in accordance with the London Court of International Arbitration Mediation Rules.
- 21.6. Either party may issue formal legal proceedings or commence arbitration at any time whether or not the steps referred to in clause 21 have been completed.

22. Notices

- 22.1. Any notice given by a party under these Conditions shall:
 - 22.1.1. be in writing and in English;
 - 22.1.2. be signed by, or on behalf of, the party giving it (except for notices sent by email); and
 - 22.1.3. be sent to the relevant party at the address set out in the Application Form.

- 22.2. Notices may be given, and are deemed received:
- 22.2.1. by hand: on receipt of a signature at the time of delivery;
 - 22.2.2. by Royal Mail Recorded Signed For post: at 9.00am on the second Business Day after posting; or
 - 22.2.3. by email provided confirmation is sent by first class post: on receipt of a delivery or read receipt email from the correct address.
- 22.3. Any change to the contact details of a party as set out in the Application Form shall be notified to the other party in accordance with clause 22.1 and shall be effective:
- 22.3.1. on the date specified in the notice as being the date of such change; or
 - 22.3.2. if no date is so specified, 10 Business Day after the notice is deemed to be received.
- 22.4. This clause does not apply to notices given in legal proceedings or arbitration.
- 23. Cumulative remedies**
The rights and remedies provided in the Agreement for the parties only are cumulative and not exclusive of any rights and remedies provided by law.
- 24. Further assurance**
Each party shall at the request of the other, and at their own cost, do all acts and execute all documents which are necessary to give full effect to the Agreement.
- 25. Entire agreement**
- 25.1. The parties agree that the Agreement and any documents entered into pursuant to it constitutes the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.
 - 25.2. Each party acknowledges that it has not entered into the Agreement or any documents entered into pursuant to it in reliance on, and shall have no remedies in respect of, any representation or warranty that is not expressly set out in the Agreement or any documents entered into pursuant to it. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Agreement.
 - 25.3. Nothing in these Conditions purports to limit or exclude any liability for fraud.
- 26. Variation**
No variation of the Agreement shall be valid or effective unless it is in writing, refers to the Agreement and these Conditions and is duly signed or executed by, or on behalf of, both parties.
- 27. Assignment**
- 27.1. The Adviser Firm may not assign, subcontract or encumber any right or obligation under the Agreement, in whole or in part, without VDM's prior written consent, which it may withhold or delay at its absolute discretion.
 - 27.2. VDM may delegate or subcontract all or any part of its obligations under these terms and the provision of the Service at any time. Prior to delegating or subcontracting any of its rights or obligations under this Agreement, VDM shall give prior notice of this intent.
- 28. No partnership or agency**
The parties are independent persons and are not partners, principal and agent or employer and employee and the Agreement does not establish any joint venture, trust, fiduciary or other relationship between them, other than the contractual relationship expressly provided for in it. None of the parties shall have, nor shall represent that they have, any authority to make any commitments on the other party's behalf.
- 29. Severance**
- 29.1. If any provision of the Agreement (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of the Agreement shall not be affected.
 - 29.2. If any provision of the Agreement (or part of any provision) is or becomes illegal, invalid or unenforceable but would be legal, valid and enforceable if some part of it was deleted or modified, the provision or part-provision in question shall apply with such deletions or modifications as may be necessary to make the provision legal, valid and enforceable. In the event of such deletion or modification, the parties shall negotiate in good faith in order to agree the terms of a mutually acceptable alternative provision.
- 30. Waiver**
- 30.1. No failure, delay or omission by a party in exercising any right, power or remedy provided by law or under the Agreement shall operate as a waiver of that right, power or remedy, nor shall it preclude or restrict any future exercise of that or any other right, power or remedy.
 - 30.2. No single or partial exercise of any right, power or remedy provided by law or under the Agreement by either party shall prevent any future exercise of it or the exercise of any other right, power or remedy by the party.
 - 30.3. A waiver of any term, provision, condition or breach of the Agreement by either party shall only be effective if given in writing and signed by a duly authorised representative of that party, and then only in the instance and for the purpose for which it is given.
- 31. Compliance with law**
Each party shall comply and shall (at its own expense unless expressly agreed otherwise) ensure that in the performance of its duties under this Agreement, its employees, agents and representatives will comply with all applicable laws and regulations, provided that neither party shall be liable for any breach of this clause 31 to the extent that such breach is directly caused or contributed to by any breach of this Agreement by the other party (or its employees, agents and representatives).
- 32. Conflicts within Agreement**
- 32.1. If there are later versions of these terms, the later terms shall prevail over earlier ones if there is any conflict or inconsistency between them.
 - 32.2. By entering into this Agreement, the parties agree that the FCA rules shall also be applicable, in the event of any conflict, the FCA Rules shall prevail.

33. Costs and expenses

Each party shall pay its own costs and expenses incurred in connection with the negotiation, preparation, signature and performance of the Agreement (and any documents referred to in it).

34. Third party rights

A person who is not a party to the Agreement shall not have any rights under the Agreements (Rights of Third Parties) Act 1999 to enforce any of the provisions of the Agreement.

35. Governing law

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

36. Jurisdiction

The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of, or in connection with, the Agreement, its subject matter or formation (including non-contractual disputes or claims).