

# Investment Services Terms of Business



Version 10.08.2023

# CONTENTS

PREAMBLE .....	3
1. ESTABLISHING A RELATIONSHIP .....	4
2. REGULATORY STATUS .....	4
3. CLIENT CLASSIFICATION .....	5
4. NATURE OF SERVICES .....	5
5. EXECUTION OF INSTRUCTIONS, CONFIRMATIONS, SETTLEMENT .....	6
6. DESIGNATED CLIENT ACCOUNT .....	12
7. NON-US/CANADA STATUS .....	13
8. ANTI-MONEY LAUNDERING REQUIREMENTS .....	13
9. CLIENT WARRANTIES AND REPRESENTATIONS .....	14
10. DEFAULT .....	15
11. COMMUNICATIONS .....	16
12. REPORTING .....	18
13. RISKS AND ACKNOWLEDGEMENT .....	20
14. CONFLICTS OF INTEREST .....	21
15. DATA PROTECTION AND CLIENT CONFIDENTIALITY .....	22
16. FEES, COMMISSION AND CHARGES .....	24
18. TAXATION, LEGAL AND ACCOUNTING ISSUES .....	25
19. FATCA/CRS .....	25
20. LIABILITY FOR LOSS AND INDEMNITIES .....	26
21. RECORDING .....	27
22. AMENDMENT .....	27
23. TERMINATION .....	28
24. DELEGATION .....	28
25. FORCE MAJEURE .....	29
26. ILLEGALITY .....	29
27. ENTIRE AGREEMENT .....	29
28. GOVERNING LAW, PLACE OF JURISDICTION .....	29
29. ONLINE ACCOUNT .....	30
30. INTERPRETATION .....	33

## PREAMBLE

These Investment Services Terms of Business (the “**Terms**” or “**Terms of Business**”), together with the Agreement for the provision of investment and other related services (the “**Investment Service(s) Agreement**”) entered into between ACM Limited, a company regulated by the Abu Dhabi Global Market (“**ADGM**”) Financial Services Regulatory Authority (“**FSRA**”) (“**ACM**”, **we, us**) and the client identity and details of whom are provided in the Investment Services Agreement (the “**Client**”, **you, yours**), as amended from time to time, contain the terms upon which ACM will provide certain investment services to you. For the purposes of these Terms any reference to the parties hereof means reference to ACM and the Client and their successors (including heirs where applicable) and assigns.

ACM reserves the right to publish a sample of the Investment Services Agreement on its web-site for information purposes only. The relationship between ACM and the Client will be regulated by the Investment Services Agreement signed between the parties and the final version of each agreement signed with a particular Client may differ from the version published on the web-site.

These Terms only apply to you if you meet the requirements to qualify as a Professional Client or a Market Counterparty in accordance with the provisions of the Conduct of Business Rulebook (“**COBS**”) of the Abu Dhabi Global Market (“**ADGM**”) Financial Services Regulatory Authority (“**FSRA**”).

Unless the parties hereto agree otherwise, and unless you notify us otherwise in writing, we will assume you are acting as principal and not as agent on behalf of another person. If we become aware that you are acting as an agent for another person in relation to a particular transaction, then unless you are an Authorised Person or a Recognised Body (as defined in the FSRA’s rules), we must also treat that second person as our client in relation to that transaction.

For your own protection, you should read and fully understand these Terms before signing the Investment Service Agreement. If you do not understand any of these Terms or references or the terms of the Investment Service Agreement, you should seek an independent professional advice on opening an account, placing orders or making a transaction with or through ACM.

These Terms, the Investment Services Agreement and/or any other written agreement or document executed by the parties hereto for the provision of the Services (as defined in clause 2.3) shall constitute the client agreement between the parties (the “**Client Agreement**”).

These Terms shall comprise an agreement for the purpose of COBS and shall be binding on you. These Terms shall form the basis upon which we shall carry on business with you as described herein.

## 1. Establishing a Relationship

- 1.1 These Terms will come into effect as of the Commencement Date of the Investment Service Agreement, provided that the documents submitted by you to us are complete in all respects to our satisfaction. Acceptance of documents by us does not confer any right to you. You are bound to furnish any further documents or rectification of the documents already submitted to us as and when required by us. We are entitled to hold back or suspend the relationship or part or whole of the Services offered/provided or to be offered or provided to you until receipt of the documents or rectification as sought by us have been provided to our satisfaction.
- 1.2 These Terms of Business cancel and supersede any other terms of business previously agreed by the parties or published by us on the website referred to in the Investment Services Agreement.

## 2. Regulatory Status

- 2.1 ACM is authorized and regulated by the FSRA under Financial Services Permission Number 180022. and has its office, currently at Office 608, 6/F, Al Sarab Tower, Abu Dhabi, Global Market Square, Al Maryah Island, Abu Dhabi, UAE.
- 2.2 ACM is currently authorised to carry out (inter alia) the following financial services:
  - 2.2.1 Advising on Investments or Credit;
  - 2.2.2 Arranging Credit;
  - 2.2.3 Arranging Custody;
  - 2.2.4 Arranging Deals in Investments;
  - 2.2.5 Dealing in Investments as Agent; and
  - 2.2.6 Dealing in Investments as Principal (only as Matched Principal).
- 2.3 The particular services to be provided to you are those stated in clause 3 of the Investment Services Agreement (collectively, the "**Services**" and each a "**Service**").
- 2.4 Capitalized terms used but not defined in these Terms or the Investment Services Agreement will have the meaning(s) given to them in the ADGM rules or (where applicable) other ADGM rules and regulations, as amended.
- 2.5 Where we provide the Services, we may hold or control Client Assets with an Authorised Firm or other regulated financial institution that is a separate legal entity from us and that is required to establish a Client Account maintained in the name of ACM. We are bound by the COBS Rules on Client Assets to the extent Clients Assets are directly held by us or held in an account in the name of ACM.

### 3. Client Classification

- 3.1 Pursuant to the ADGM Rules, with respect to Investment Business, you may be classified as a Retail Client, a Professional Client or a Market Counterparty.
- 3.2 We will categorise you according to the FSRA's rules and separately notify you of your categorisation. You have the right to request a different client categorisation by writing to us. If you request to be categorised as a Retail Client (as defined in COB Rules) we will not be able to provide services to you as we do not provide our services to Retail Clients. If you are categorised as a Professional Client, the statutory and regulatory protections which we would be required to provide to you are reduced compared with those of a Retail Client. If you are categorised as a Market Counterparty for any of our services, the statutory and regulatory protections which we would be required to provide to you are limited.
- 3.3 You acknowledge and agree that you are responsible for informing us if your categorisation is not appropriate and for keeping us informed about any change which could affect your categorisation.
- 3.4 You acknowledge that as a Professional Client or Market Counterparty (as the case may be), you do not benefit from the higher level of protection available to Retail Clients.
- 3.5 Further, you are required to inform us of any change/s or other matters that may be of relevance about your client classification by us, including but not limited to AML/KYC, Sanctions and Counter-Terrorism Financing ("**CTF**") requirements.

### 4. Nature of Services

- 4.1 Without limiting the generality of clause 2.2 in respect of the services we are licensed to provide, and subject to our right to refuse to accept your instructions, you authorise us under these Terms to carry out from time to time dealings in the following investments and instruments: shares, options, futures, units in a collective investment fund, rights to or interests in investments, structured products, government and public financial instruments and such other financial instruments in relation to which we are permitted to offer services ("**Financial Instruments**" or "**Investments**") on an execution-only basis, following such execution methods and forms as we may be authorised to adopt from time to time, and to provide other services as stated in the present Terms of Business, acting within the scope of our licence.
- 4.2 On order to provide services under these Terms of Business we may open one of several accounts for you and for the purposes of these Terms of Business and documents related thereto the term "Account(s)" will mean one or more accounts in our books, in which we record: (a) all amounts credited and debited to you, and (b) all assets and cash we hold on your behalf.
- 4.3 The Account(s) are opened on the basis of the Investment Service(s) Agreement entered into between you and ACM and on the basis of requests for an additional account that shall be provided to ACM in a form acceptable to ACM on or after the Commendment Date of the

Investment Services Agreement. Opening of several Accounts is up to approval from ACM and ACM reserves the right to reject such opening without reasoning. You may close any of your Accounts by providing a request in a form acceptable to ACM and ACM reserves the right to close any of your Accounts at its own discretion. ACM will provide you with information concerning opening or closing of the relevant Account(s) within reasonable time frames by any means of communication available hereunder, including through Online Account.

- 4.4 For the purposes of execution of any transactions, provision of Services, execution of any of the Client's obligations under the present Terms of Business ACM reserves the right at its own discretion to transfer assets and funds between different Accounts opened hereunder without any agreement or confirmation from you.

## **5. Execution of Instructions, Confirmations, Settlement**

### **5.1 Execution of instructions**

- 5.1.1 Except where we are following your specific instructions, we are obliged to effect transactions according to your instructions on a best execution basis, meaning that we shall take reasonable care to determine the best execution available for the specific Investment under the prevailing market conditions and deals at a price and other conditions which are no less advantageous to you.
- 5.1.2 We shall try to act on instructions received on a Business Day on the same day that we receive them but our ability to do so may depend upon the time of day that we receive the instruction and the nature of the instruction. Instructions received on a day which is not a Business Day will be acted upon on the following Business Day.
- 5.1.3 If, having sent us an instruction, you change your mind and request that it be cancelled, it will not be possible to do so if the instruction has already been acted upon. If you wish to revoke or cancel an instruction you should telephone us as soon as possible, giving relevant details. Any revocation by telephone must be confirmed in writing as soon as possible.
- 5.1.4 At our sole discretion we may in certain circumstances refuse to act on instructions and we shall be under no obligation to make further checks, as to the caller's or sender's identity. Without limiting our discretion, we may refuse to act upon instructions where (i) we believe or suspect that the instruction may not genuinely have come from you or a person authorised by you, (ii) the instruction is unclear, (iii) the instruction is not in keeping with the way you normally use our services, (iv) acting upon the instructions may involve us breaking a law, regulation, legal requirement, code of practice or other duty.
- 5.1.5 For the purpose of clause 5.1, you authorise us to enter into and execute transactions in accordance with your instructions, provided by you subject to the terms of these Terms of Business.

- 5.1.6 When we accept an instruction or execute a transaction for you (including programmed trades) we may act as agent, principal, or a combination of both (including as broker-dealer in riskless principal transactions) unless it is unambiguously clear from the terms of the instruction (and we accept those terms) or the rules of an exchange that we will act in a specific capacity or we may arrange for execution of the transaction, at our absolute discretion, through one of our associated firms or any third party broker; and if any applicable rules require us to act as your agent on an exchange where we cannot act as principal, then you undertake to sign and deliver any additional documents that we need to do so. We may meet your objectives by accessing our own internal sources of liquidity (including, crossing against client order flow, client facilitation, market making or proprietary trading), hereby you are providing us with any relevant consent as may be required. This may mean that we are trading as your agent and as principal on our own behalf and your instruction may not be executed on an exchange's central trading system, but such trades will be reported if required in accordance with applicable rules. We may provide the exchange with the required client's consents and disclosures upon request.
- 5.1.7 We will not act on any instruction which is not provided:
- a) through predefined channels and;
  - b) from authorised persons,
- as these are defined herein or under the Investment Services Agreement. Instructions will be accepted, only if they are submitted by persons authorised on your behalf and through a predefined method of submission. Additionally, we will not accept, and will not be liable in any way, for instructions and/or orders submitted to non-authorised employees of ACM.
- 5.1.8 We shall not be liable for any loss, expense, cost or liability (including consequential loss) suffered or incurred by you as a result of instructions being given, or any other communications being made via the internet or other electronic media where the person giving the instruction has unauthorised use of the mediums defined by you. You will be solely responsible for all instructions, and for the accuracy of all information, sent via such electronic media using your name or personal identification number which was predefined.
- 5.1.9 We shall not be held responsible for delays or inaccuracies in the transmission of any instruction or other information or the execution of instructions due to any cause whatsoever beyond our reasonable control.
- 5.1.10 Subject to provisions hereof, you shall indemnify us and keep us indemnified against all losses which we may suffer as a result of:
- any error in any instruction given by you; or
  - acting on any instruction which is, or which appears to us acting reasonably to be, from you.

- 5.1.11 In certain cases, if, after instructions are received, we reasonably believe that it is not in your best interests to act upon such instructions, we may defer acting upon those instructions until it is, in our reasonable opinion under the circumstances, practicable to do so or notify you that we are refusing to act upon such instructions. We shall not be liable for any losses resulting from such deferral or refusal.
- 5.1.12 We may act as a principal in transactions with you. Alternatively, instructions may be passed to other intermediate broker(s) (selected at our discretion). Subject to the Service requested by you or the Financial Instrument for which the instruction is submitted, such persons may not be regulated by FSRA or equivalent authorities and any instructions may be subject to different terms, conditions and rules. In accordance therewith any ADGM regulations for the protection of investors may not apply.
- 5.1.13 Where relevant, we may aggregate and allocate an instruction of yours with those of another client or with an order for our own, the effect of the aggregation may operate on some occasions to your disadvantage.
- 5.1.14 Unless expressly provided elsewhere herein, instructions from you will be acknowledged by us acting on them unless we advise you that we believe such action may not be practicable or might cause any party to breach any law, rule or regulation. In certain circumstances we may be obliged not to disclose the fact that, or reason why, we have not acted on an instruction.
- 5.1.15 We reserve the right and you authorise us not to execute any instruction provided by you or cancel any transaction at our own discretion and you agree and confirm your understanding that we will not be obliged to provide any grounds for such a decision.
- 5.1.16 We reserve the right to reject acceptance and execution of your orders and instructions in full or partially should we determine that there are any reasonable grounds therefore or any restrictions and limitations imposed by us internally or execution of such orders or instructions may create any risks not acceptable to us or there are any force majeure events that are beyond our control hindering or preventing us to proceed with the execution of an order or instruction. If we reject to execute an order or instruction, we will notify you as soon as reasonably practicable. Such grounds and events include, but are not be limited to, any breakdown, delay, malfunction or failure of transmission, communication or computer facilities, industrial action, act of terrorism, war, force majeure events, acts and regulations of any governmental, quasi-governmental or supranational bodies or authorities, implementation of law, order, regulation, court decision or any other circumstances and events prohibiting, restricting or in any way affecting activities of ACM or which prevent or hinder completion of the transaction, execution of order or instruction. Such events also include imposition of any limitations by and/or failure or refusal/rejection, as might be applicable, of any intermediary, account bank, sub-custodian, broker, dealer, exchange, clearing house, or regulatory or self-regulatory organization, agent of the above for any



reason to perform its obligations and other events beyond our reasonable control. To the fullest extent permitted by applicable law you release us from any and all liability and claims of whatever nature in any way relating to or connected with rejection of any order or instruction as described herein.

5.1.17 You shall indicate relevant Account in all the instructions provided to us. In case no Account is indicated in the instruction we reserve the right not to act under the instruction provided before we receive the required information with no liability therefore.

5.1.18 Unless a particular Account is expressly indicated in the instruction provided or in case of insufficiency of funds or assets on a designated Account you authorise us to debit or credit any of your Accounts held by us at our own discretion in order to execute a particular instruction.

## 5.2 Confirmation

5.2.1 Upon execution of a transaction and in accordance with applicable laws and regulations we will confirm the details to you (which confirmation may be in electronic form, including Online account or through DocuSign and have the same legal effect as if served in written hard copy). All contract, confirmations or statements issued by us shall bind you unless a detailed objection is received by us within 24 hours of dispatch.

## 5.3 Settlement

5.3.1 Settlement of all transactions with or for you must be made in accordance with the usual terms for settlement of the appropriate custodian and/or market convention. If either party is required to deliver any asset, they will execute and deliver all necessary documents and give all necessary instructions to procure that all rights, title and interest in the asset will pass to the transferee free from all liens, charges and encumbrances. Delivery and transfer of title will take place in accordance with the requirements applicable to that asset.

5.3.2 All amounts payable by you to us will be payable on pre-payment basis and securities to be delivered by you to us will be delivered on pre-delivery basis unless we expressly agree, or stipulated herein, or in report or confirmation, or applicable rules or market practice require otherwise or you have entered into a separate agreement for the provision by us to you of credit services. However, we may in our commercially reasonable discretion effect settlement with you on a net or partial basis. We propose a special exception from the pre-payment basis when we act in a broker-dealer capacity being engaged in riskless principal activity. In this case you have to make funds available required to settle transaction and within the limits we may set not later than at a settlement date subject to applicable exchange rules. To take advantage of this exception, all your outstanding obligations towards us are settled. If you fail to pay any sums in respect of any riskless principal transaction we may take certain actions stated herein.

- 5.3.3 We are not obliged to settle any transactions whether acting as matched principal or as agent, or account to you unless and until it (or its settlement agents) have received all necessary documents, securities or cleared funds. Our obligations to deliver Investments to you, or to your account, or to account to you for the proceeds of the disposal of Investments, are conditional on prior receipt by us of appropriate documents, or cleared funds, from you. If we are acting as your agent we will pay proceeds of sale or deliver or transfer documents or Investments to you or to your account only if we have received these from the other party to the transaction.
- 5.3.4 All instructions will be given by you and executed by us with the understanding that an actual purchase or sale is intended and that it is your intention and obligation in every case to deliver assets to cover any and all sales and in the case of purchases to receive and pay for assets, and that you will do so upon our demand. If we make a short sale of any Investments at your direction or if you fail to deliver to us or your account administered by us any assets representing any Investments which we sold pursuant to your instruction, we are authorized to borrow or acquire any property or documents of title necessary to enable delivery to be made to the purchaser and you agree to be responsible for the cost or loss that we may incur in so doing.
- 5.3.5 You will indemnify the Indemnified Persons against any cost, loss, liability, penalty or expense arising from your failure to deliver securities or funds to us or our affiliate when they are due.
- 5.3.6 We shall be entitled, without prior notice to you or any instruction from you, to make the currency conversions necessary, or desirable, for the purposes of fulfilling your transaction. Any such conversion shall normally be made by us, as a matched principal, at a rate which reflects the size, liquidity and timing of the transaction. We shall disclose to you the relevant rate on the contract note or confirmation in accordance with provisions hereof. Any foreign exchange risk arising from any contract, us or our affiliate compliance with its obligations, or any exercise of its rights under these Terms shall be borne by you. In addition to rights provided under this sub-clause 5.3.6 regarding currency conversion we are entitled to convert any balances in Russian Rubles at the end of each Business Day into AED at the exchange rate available to us on the market at the moment of such conversion.
- 5.3.7 We may debit the relevant Account and withdraw or deduct the amount required to meet your payment obligations arising in connection with these Terms, execution of any transactions hereunder and any such withdrawals and deductions will be made in accordance with the provisions of applicable laws and regulations.
- 5.3.8 We will not execute any instruction unless there is a sufficient cash balance on your Accounts on the day the transaction is to be effected, provided that we will promptly inform you in the event that any instruction cannot be executed for this reason.

- 5.3.9 We shall process corporate actions (including dividends on securities, coupons on bonds etc.) in accordance with established market convention. Where there are inconsistencies in market conventions, we reserve the right to apply the convention it considers most appropriate in the circumstances.
- 5.4 You agree to be exclusively responsible for any instruction sent electronically by you that is identified with your Account number and for any electronic, oral and written instruction to us from persons we in our sole judgment, believe are apparently authorized by you.
- 5.5 We shall have no responsibility for further inquiry into such apparent authority and no liability for the consequences of any actions taken or omitted to be taken by us in reliance on any such instructions or on the apparent authority of any such persons.
- 5.6 We would provide you with information, generic reports, presentations, marketing material, investment research on the financial instruments, money markets in relation to your Investments and may also provide economic commentary and analysis of a generic nature sourced from our affiliates and group companies (collectively referred to as the "**Group**") and other service provider that is specific to any company/ sectors, to suit particular need etc. relating to Investments and Services which we consider to be of interest to you or which may be requested by you. However, you shall make decisions only after considering the merits of such a decision and we shall not be responsible for such decision for any reason whatsoever. If need be, you should seek additional information/advice from your advisor with regard to the Investments or Services which may interest you as each Investment would have separate Investment literature associated charges and investment risks etc. The same would also be available in the Investment documentation, brochures, or specified on the website of the Investment manufacturer etc. You should conduct your own due diligence on the Investments and Services and take an independent decision.
- 5.7 The information, generic reports, presentations, promotional/ marketing material, etc. provided to you is intended only for persons to whom we may lawfully promote under ADGM requirements. We may seek to obtain from you such information as is necessary to enable us to conclude whether the promotional/marketing information may be provided to you. Information received from you in respect to such requests from us will be accepted in good faith and relied upon by us.
- 5.8 By providing you with the promotional/marketing information on Investments, we are not providing any advice or making any recommendation, nor should this information be inferred as a recommendation, to suit your investments needs.
- 5.9 Detailed information about the Investments such as structure, investment objectives, risks, and any other matters of relevance will be available in the Investment documentation. This may include, but is not limited to, term sheets, placement memorandum, subscription document, prospectus, etc. We make no warranty as to the accuracy of any such information provided and accept no liability in respect of any loss suffered by you as a consequence of relying on the Investment documentation.

- 5.10 You acknowledge that we will not be able to offer you the Investments or Services until such time you have been on-boarded as a Professional Client or Market Counterparty (as the case may be) after completing a comprehensive know your client check and a full AML verification including further open source, PEP's and sanction checks undertaken by the compliance officer. You also acknowledge that the client onboarding approval is at the discretion of the compliance officer and subject to meeting ADGM requirements.
- 5.11 We may be required to provide your details to third parties and service providers (such as corporate administrators, legal advisors and financial institutions) based on your specific Investment or Service requirement. Kindly note that this is provided based on your deemed approval and without any risk and responsibility on our part. Any such third party or service provider has the absolute right to either accept or reject your application based on the information provided by you and/or they may ask for any additional information or documentation to meet their regulatory/internal requirements.
- 5.12 We will not do anything or refrain from doing anything which would in our opinion infringe any applicable regulations or other requirements to which we are subjected to comply. We may carry out any action that is, in our reasonable opinion, necessary to comply with such regulations and requirements.
- 5.13 We have investor grievances redressal mechanism in place according to which clients may report their grievance, feedback or complaint. All complaints should be made in writing / email and directed in the first instance to the Compliance Officer of ACM. The same will be attended and/or resolved within a reasonable period of time. Our current Complaints policy is published at the following website address: <https://acmgroup.ae/>.

## 6. Designated Client Account

- 6.1 Where we provide the Services, we may hold or control Client Assets with an Authorised Firm or other regulated financial institution (including a bank, a custodian, an intermediate broker, a clearing house, an exchange and 'over the counter' counterparty) that is a separate legal entity from us and that is required to establish a Client Account ("**Third Party Agent**") maintained in the name of ACM. We are bound by the COBS Rules on Client Assets to the extent Client Assets are directly held by us or held in an account in the name of ACM.
- 6.2 Where we hold or control Client Assets with a Third Party Agent, we undertake an assessment of that Third Party Agent and assesses its suitability to hold the Client Assets. Client Assets may be held in a jurisdiction outside the ADGM and the market practices, insolvency and legal regime applicable in that jurisdiction may differ from the regime applicable in the ADGM. We are not liable in the event of default by the Third Party Agent.

- 6.3 Any assets held in the Client Account will be separate from the assets of ACM. In the event of our insolvency, winding up or other distribution event stipulated by the ADGM, the Client's Money will be subject to the ADGM's Client Money Distribution Rules.
- 6.4 Where applicable, we do not pay interest on cash accounts.
- 6.5 Where we arrange custody for a Client, we are not ourselves Providing Custody. The duties or responsibilities to you for the safe custody of your Investments therefore remain with the relevant third party custodian.
- 6.6 Cash and investments may be credited to one or more cash and/or custody accounts which may be created and administered by us and/or by third parties selected by us on behalf of and for the benefit of you. We shall have full power and authority to operate such accounts in the performance of these Terms of Business.
- 6.7 If agreed by ACM you reserve the right to transfer assets (including both securities and funds) between the Accounts opened hereunder and under the asset management agreement between you and ACM incorporating the ACM Discretionary Management Terms of Business provided such a transfer is made in accordance with relevant provisions of the asset management agreement between you and ACM regarding withdrawal of assets and the provisions hereof.

## 7. Non-US/Canada Status

You confirm that you are not a US/Canada person (that is primarily, but not limited to, a person resident in the US/Canada) and are not acting for a US/Canada person at the time that we provide Services to you under these Terms. Further, you are required to inform us as soon as your status changes. Based on our policy, we do not deal with US/Canada Persons.

## 8. Anti-Money Laundering Requirements

- 8.1 Our dealings with you will be covered by various legal requirements relating to Money Laundering, Sanctions and/or Terrorist Financing, etc (collectively known as AML/KYC, Sanctions and CTF) these are referred to as "**Anti Money Laundering Requirements**" in these Terms.
- 8.2 In order to enable us to discharge our obligations under the Anti Money Laundering Requirements, you are required to provide us, at our request, with such information about yourself and/or your associates, beneficial owners, related parties and details of all the entities with which you may have either direct or indirect relationship, and other details as we may reasonably require. In the event of failure to provide any of the requirements, as part of our compliance requirements with various statutory bodies or regulatory authorities we will comply with the requirements laid down by the ADGM AML Rulebook and/or guidance/recommendations.

## 9. Client Warranties and Representations

9.1 You warrant and represent (which shall be deemed to be repeated each time you provide instructions or information to us), that:

- (i) you have full power and authority, as well as all necessary licenses, authorisations, consents and approvals to enter into these Terms of Business and to request us to provide you with our services;
- (ii) you will not violate any laws or regulations or any agreement or rule by which you are bound, by entering into these Terms of Business;
- (iii) each transaction you enter into hereunder, is based on your own independent judgement and not on any recommendation or advice provided by us or any of its directors, officers, employees or affiliates;
- (iv) you are not under any legal disability with respect to, and are not subject to any law or regulation which prevents your performance of, these Terms of Business or any transaction contemplated by these Terms of Business;
- (v) you have obtained all necessary consents and have the authority to enter into these Terms of Business (and if applicable, the company is properly empowered and has obtained necessary corporate or other authority pursuant to its constitutional and organizational documents);
- (vi) investments or other property supplied by you shall at all times be free from any charge, lien, pledge or encumbrance;
- (vii) you are in compliance with all laws to which you are subject including, without limitation, all tax laws and regulations, exchange control requirements and registration requirements; and
- (viii) the information provided by you to us is true, complete, accurate and not misleading in any material respect and you commit to notify us as soon as possible upon occurrence of any changes that affect the information that has been provided to ACM.
- (ix) you will inform us immediately (or as soon as reasonably expected) of any material change to your legal status, your identification/incorporation status and of any material change affecting the operation of your account/relationship with us and provide us with all relevant supporting documentation.
- (x) you have obtained and will renew and maintain a Legal Entity Identifier (LEI) code for each entity using the services. You will immediately inform us in writing of any changes to such LEIs and of any new LEI codes issued to you,

- (xi) You warrant that, if applicable, as a legal entity you are duly incorporated and validly existing and in addition in all circumstances that you have full power to enter into the Investment Service Agreement with us and that any information which you have provided to us is complete and correct, and you will promptly provide us with any other relevant information which we may reasonably request from time to time and you will notify us promptly if there is any material change in any information you have provided and agree to provide any further information properly required by any competent authority,
- (xii) We may refuse to carry out an instruction or a transaction if you do not provide the information requested

## Authority and Consents

9.2 You warrant that you will:

- a) obtain and maintain in effect in relation to all transactions all necessary consents by any government or regulatory body (the "**Consents**");
- b) comply with the terms of all such Consents and all applicable laws, regulations and directives of such bodies and authorities; and
- c) forthwith on demand deliver to us copies of all such Consents or such other evidence of any such Consents and such evidence or compliance with such and with any laws, regulations and directives as we may reasonably require.

## 10. Default

10.1 Hereby you directly authorize us and confirm that we are entitled (and no additional instructions or any document or consents will be required to be provided by you for these purposes) to take all or any of the following actions without prior notice to you 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 obligations under these Terms:

- a) sell any investments bought on your behalf but for which you have not paid on or before the relevant settlement day;
- b) close or rescind open positions;
- c) 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 the terms of these Terms, or otherwise to protect our position; and
- d) reject any transaction which you place with us for execution.

10.2 Any costs or losses incurred by us in effecting any or all of clause 8.1 (a), (b) or (c) will be paid by you to us.

## 11. Communications

### 11.1 Statutory and contractual communication

- 11.1.1 Any written statutory and contractual communication resulting from you agreeing to be bound by these Terms will be considered as validly carried out, by you to us to our corporate address, and by us to you in accordance with the information about you provided in the Investment Service Agreement and/or Client Application Form (as updated from time to time) and/or by publishing relevant information or documents on our website or by providing relevant documents through the Online Account. You undertake to review our website on a regular basis.
- 11.1.2 You will communicate with us in English and all standard documents will be available in English. If any documentation or communication is required by you in any other language, you are solely responsible for translating these Terms and any other communications into a language other than English. If a document is translated into any other language, this will be for informative purposes only and the English version shall prevail.
- 11.1.3 Each party may by written notice to another party change its address, telephone number or e-mail details specified in the Investment Services Agreement or Client Application Form, the details of the Investment Services Agreement or Client Application Form will be deemed amended respectively as of the date the relevant notice is received by such party. You will promptly inform us by written notice of any change of information provided under these Terms of Business or the Investment Service Agreement or Client Application Form, including relating to your identity, your nationality, your registered office or address, your economic situation, as well as of the changes related to the beneficiary owner of the Assets.

### 11.2 Mode of transmission of the instructions by the Client

- 11.2.1 You may communicate your instructions to us in writing only by post, Online account, through DocuSign system or electronic mail (in which case a scanned copy of duly executed instruction shall be provided), to the addresses indicated by us. We reserve the right to request written or an oral confirmation by phone of your instructions at any time. You will promptly confirm instructions at our request. It is understood that we are not obliged to await such confirmation before executing the instructions we receive. We are under no obligation to request written or oral confirmation and we shall not be liable in respect of the absence of confirmation or a discrepancy between an executed transaction and the written or oral confirmation. You hereby acknowledge and accept that all verbal communications could be recorded and/or log by us as stated in Appendix 1 hereto.

We will treat as genuine and process any communications that we believe in good faith to have been issued by you (or your authorised representatives) and we will not be obliged to confirm or verify the authenticity of the communication. Where we receive instructions or purported instructions by letter, electronic communication (including Online account,



DocuSign or email) or any other method specified herein and acceptable to us, we may act without further enquiry as to the identity or authority of the person giving any such instructions or the authenticity of the communication and may treat this as fully authorised by and binding on you. This will be the case regardless of the amount of the transaction or any error, misunderstanding, lack of clarity, fraud, forgery, or lack of authority in relation to the communication, and we will also not be required to obtain further confirmation from you in any form.

- 11.2.2 Where instructions are given, forms are submitted or execution pages of documents are provided to us by scanned image, a photocopy or any other form (other than the original), we may refuse to act on this until it has received the original. Where we agree to act in reliance on the copy, you will provide us with the original within the time requested by us for you to do so. If you fail to do this, we will be entitled to reverse any action taken in reliance on the copy, at your cost. We reserve the right but are not obliged to request an oral confirmation by phone of your instructions at any time.
- 11.2.3 You take the full risk linked to the execution of its instructions. You also take the risk linked to error or frauds in the transmission of these instructions.
- 11.2.4 Moreover, you release us from any liability for any loss, misunderstanding, deterioration, duplication, error, delay or non-execution of an instruction of you that occurred because of a defective transmission or an unavailability of the transmission mean used by you or us or the requirement of an instruction to be in writing. In this case, your attention is drawn to the fact that the use of telephone, electronic mail, Online Account, DocuSign system involves considerable risks, such as lack of confidentiality, falsification of the content and/or identity of the sender, as well as transmission errors, any damage resulting therefrom is your responsibility.
- 11.2.5 You acknowledge that use of e-mail, Online Account, DocuSign system necessarily involves certain risks. By using e-mail, Online Account, DocuSign system to communicate you are agreeing to assume any and all risks connected therewith. E-mail, Online Account and DocuSign system may not be secure, and communications through e-mail, Online Account or through DocuSign system may not be confidential. We assume no responsibility to update or verify any information communicated through e-mail, Online Account or through DocuSign system. We will not be liable for any damages incurred in connection with the loss, theft, corruption, alteration or disclosure of any emails, or any other electronic messages or communications (including by the submission of forms made available electronically) between you and us. The damage resulting from a failure of legitimation or undetected forgery is your responsibility, except to the extent that such damage arises from the our gross negligence or willful misconduct under these Terms.
- 11.2.6 The Parties agree that the communication modes specified in the Investment Services Agreement and these Terms of Business are deemed valid.

- 11.2.7 All communications will only be deemed to be validly given or served by you when received by us. Communications are considered to have been received, on receipt, when they are received during business hours of ACM, or at the start of the next business day, when they are received outside business hours.
- 11.2.8 You hereby acknowledge and accept that any future written correspondence, (i.e. emails, scanned copy of the original documents forwarded by electronic mail, Online account, documents executed through DocuSign system) shall be sufficient evidence to determine your expressed will in the event of controversy between you and us including the resolution of disputes in competent court, in accordance with applicable law.
- 11.2.9 Any confirmation, account or other statement which we give in writing, will in the absence of manifest error, be deemed correct, conclusive and binding on you, if not objected by you in writing within five business days of dispatch by us.
- 11.3 References in these Terms of Business and/or in Investment Service Agreement to a communication, instruction, notice, or other document 'in writing', unless stated otherwise, include communications made through any electronic system which is capable of reproducing such communication in hard copy form, including Online account, DocuSign system and e-mail. Expressions related to writing must be interpreted accordingly.
- 11.4 Any notice or other communication in respect of these Terms of Business and/or Investment Service Agreement will be deemed effective as indicated:
- (i) if in writing and delivered in person or by courier, on the date it is delivered;
  - (ii) if sent by certified or registered mail (airmail, if overseas) or the equivalent (return receipt requested), on the date it is delivered or its delivery is attempted;
  - (iii) if sent by electronic messaging system, including by e-mail, Online Account and DocuSign on the date it is sent provided the sender does not receive an automated message that the email has not been delivered; or
  - (iv) if published on a web-site as of the date of such publication,  
  
unless the date of that delivery (or attempted delivery) or that receipt or publication on the web-site, as applicable, is not a local business day or that communication is delivered (or attempted) or received, as applicable, after the close of business on a local business day, in which case that communication will be deemed given and effective on the first following day that is a local business day.

## 12. Reporting

### 12.1 Duty of reporting

- 12.1.1 Annually, at any time at our discretion and upon your request, we will provide written reports (including statements of Accounts, assets status report), including through Online account. In case several Accounts are opened under these Terms of Business we reserve the right to provide a separate report for each of the Accounts and/or a consolidated report for all the Accounts. Letters of notices about separate transactions shall only be prepared upon a special request. In case you make such a request, relevant written reports, letters of notices will be provided within 14 (fourteen) calendar days as of the date we receive your request.
- 12.1.2 Should we utilise in our reporting a benchmark for comparison purposes, this would solely be done with the aim of informing you. The descriptions and comparisons with a benchmark shall in no event contain the assertions on the likelihood of achieving such a reference benchmark, and in no event shall imply legal obligations, promises or warranties.
- 12.1.3 We reserve the right to delegate the performance of obligations related to preparation of reports to third parties which provide the relevant services.
- 12.1.4 The written report will be handed over to you using the address and other details as indicated in Investment Service Agreement and/or Client Application Form or by making it available through the Online account.
- 12.2 Client's tacit approval
- 12.2.1 It is incumbent upon you to review the documents intended for you and produced by us. You are bound to promptly submit in writing to us any complaint or objection concerning the operations, transactions and the execution or non-execution of instructions of any kind, any documents provided hereunder in case there are any complaints or objections from you. In case any specific provisions or timeframes for review and non/acceptance of particular documents or objecting thereto are stated in these Terms, you shall comply with them. The reports and any other documents shall be deemed as received unless you notify us of failure to obtain information by any means.
- 12.2.2 Our acts stated in the documents and any other information provided therein addressed by us to you are considered as irrefragably approved by you if your challenge in writing was not received by us within a time limit of 5 (five) business days following the date on which the first document informing thereon has reached you excluding contract, confirmations or statements issued by us in accordance with clause 5.2 hereof which shall bind you unless a detailed objection is received by ACM within 24 hours of dispatch.
- 12.2.3 If you have failed to raise an objection due to lack of understanding (e.g. interpretation of the investment policy and losses from fluctuations of foreign exchange rates, interest rates, and so on), the entire burden of liability shall be borne by you.

12.2.4 If you did not receive the communication addressed to you, the time limit mentioned hereinbefore runs as from the date when this communication ought to have normally reached the Client.

12.3 Your dealings with the service provider shall be on terms expressly agreed upon or on terms contained in the relevant documentation provided to you separately. The service provider or the credit institutions extending credit facilities shall confirm the same to you. Our role shall be limited to facilitating your Investments.

### 13. Risks and Acknowledgement

13.1 When entering into any transaction with or through us, you should be satisfied that you fully understand and appreciate the transaction, the nature and the extent of the underlying risks and rewards. You acknowledge that we will not consider issues of suitability or make any representations or warranties as to the suitability of any particular Investment when providing any Services to you. You are requested to independently assess the suitability of the transaction (after taking independent professional advice, if deemed necessary) in light of your investment objectives, experience, financial condition and other relevant circumstances. By signing the Investment Service Agreement and availing of the Services, you are giving your express consent to this understanding.

13.2 You should refer to any additional details of risks associated with the Investment that may be provided to you from time to time by us prior to entering into such a transaction.

13.3 Where we provide any Services, you should ensure that you have reviewed and understood the terms and conditions and other documents or agreements connected therewith so that you may properly appreciate and distinguish between the Services or Investments being provided by us and others, and appreciate the characteristics of respective obligations owed by us and other providers. In the event of doubt, you should contact us for further clarifications or reference to the person who can provide such clarification as the case may be.

13.4 Without prejudice to any of the foregoing, you acknowledge, understand and warrant that:

13.4.1 investment in leveraged and non-leveraged transactions are speculative, involves a high degree of risk, and is appropriate only for persons who can assume risk of loss of their entire deposit;

13.4.2 because of the low margin normally required in OTC trading, price changes in OTC may result in significant losses;

13.4.3 guarantees of profit or freedom from loss are impossible in OTC trading;

13.4.4 you are willing and able, financially and otherwise, to assume the risk of OTC trading;

13.4.5 you have received no such guarantees from us or from any of our representatives or any introducing agent or other entity with whom you are conducting your account and you have

not entered into this Agreement in consideration of or in reliance upon any such guarantees or similar representations;

13.4.6 the high degree of leverage that is obtainable in the trading of Forex, CFDs and Options transactions can work against you as well as for you. Leverage can lead to large losses as well as gains;

13.4.7 CFDs are complex instruments and come with a high risk of losing money rapidly due to leverage, and at any time, you should consider whether you understand how CFDs work and whether you can afford to take the high risk of losing your money;

13.4.8 during times of extreme volatility it can be difficult or impossible to execute orders; and

13.4.9 in consideration of our carrying out the Services, you agree not to hold us and any of our subsidiaries, affiliates or agents responsible for any losses incurred by you should any of the above risks or similar risks occur in relation to an Investment.

13.5 You certify that you are experienced and well informed in financial matters and in operations involving your assets. We nevertheless explicitly draw your attention to the risks related to investing in securities and you confirms that you understand and accept such risks. Relevant risk disclosure is provided in Appendix 2 hereto and by agreeing to these Terms of Business you confirm that you have read and understood this risk disclosure and accept all these risks.

## 14. Conflicts of Interest

14.1 With the complexity and the size of business which we as ACM have and our reliance on third parties including for providing Services, situations may arise where we may have an interest, relationship or arrangement ("**Interest**") in any Services offered by us which may conflict with your interests. Such Interests may not be separately disclosed to you before or at the time you enter into any agreement, any transaction or any other arrangement as a consequence of any Services provided to you pursuant to these Terms. In such a situation we shall take all reasonable steps to ensure that your interests are not adversely affected and ensure a fair treatment.

14.2 We may, but are not obliged to, at our sole discretion, provide information and documents to you relating to any such Interests, relationships or arrangements, upon your written request for the same. However, if arrangements made by us to manage conflicts of interest are deemed by us not to be sufficient to ensure, with reasonable confidence, that risks of damage to your interests will be prevented, we will clearly disclose the general nature and/or course of conflicts of interest to you before undertaking business for you.

14.3 For the effective management of conflicts of interest, we have systems and policy in place to ensure that while providing those Services neither we nor those employees will be required to have regard to any information which is confidential to another client and which is not known to us or particular employee(s) responsible for handling your affairs and hereby ensuring that clients

are treated fairly and in such a manner as to ensure that any conflict that may exist does not prejudice that client's interests. Please see our Conflicts of Interest Policy at the following website address: <https://acmgroup.ae/>.

- 14.4 Further, as a result of this relationship with other clients and with a person or persons connected with us, we may in exceptional circumstances be unable to provide Services in relation to particular investments. If you request information in relation to such investment, we may inform you that it is for the time being precluded from advising in relation to those investments and we shall not be obliged to disclose the reason why that is the case or any further information relating thereto.

## 15. Data Protection and Client Confidentiality

- 15.1 By agreeing to be bound by these Terms of Business, you expressly consents that we may collect, process, transfer and disclose (as such terms and concepts are defined by the ADGM's Data Protection Regulations of 2021 as from time to time amended, extended, replaced or re-enacted) without the need for consent or approval from you or notification to you, your information (including personal information and/or sensitive personal information), where applicable information in relation to your beneficial owners, information regarding your investments and/or your use of any of our services to third parties, including but not limited to:
- affiliated companies within ACM's group (including their employees, directors and shareholders) who are under a duty of confidentiality to us;
  - any court or tribunal or regulatory, supervisory, tax or other governmental or quasi-governmental authority where ACM is or may be required by applicable law, any applicable FATCA/CRS obligations (or any similar obligations) insofar as they may apply to us, any applicable agreement with tax authorities, or its own policies;
  - any party for the purpose of enforcing or preserving the ACM's rights against you, such as where there are any proceedings brought by us against you or vice versa, or by any third party against you or us in respect of any services offered by us to you;
  - any party pursuant to our internal operational requirements (including risk management, system or product development and planning, audit and administrative purposes);,
  - other third parties if the disclosure is necessary for performance of these Terms of Business and the Investment Services Agreement without any compensation due to you.
- 15.2 Nonetheless, this provision does not authorise disclosure of such Personal Data to any government authority of any level in the United Arab Emirates or the ADGM or abroad unless we are compelled to do so by the enforceable decision of a public authority or competent court or when required under applicable laws and regulations.

- 15.3 Any transfer of your information pursuant to this clause 15 may, from time to time, involve transferring your information outside of the ADGM to a jurisdiction that does not provide the same level of data protection as the ADGM and you consent to any such transfer.
- 15.4 Unless we are compelled to do so by the enforceable decision of a public authority or competent court or when required under applicable laws and regulations, we will not disclose in any manner to any third parties, which would not be bound by confidentiality obligations, except to its affiliates, auditors, tax, legal and other advisors, the information of confidential nature concerning you or your assets which we would become aware of under these Terms.
- 15.5 You agree to keep confidential, and not to disclose to any person or otherwise make use of, any information concerning the Investment Services Agreement which is not public, including any agreed fee arrangements, commissions paid, advice and investment strategies, unless the disclosure is required by applicable law or you have obtained our prior written consent.
- 15.6 Client Confidentiality
- 15.6.1 We undertake to keep all information we receive in connection with these Terms private and confidential, even when you are no longer a client. Such information will not be disclosed to any person without your prior consent, which need not be in written form and shall not be unreasonably withheld, except to the extent that:
- a) we are required to disclose the information by and to FSRA, our internal auditor, any regulated market of which we or any of our affiliates are engaged in for and on your behalf or are members of, any regulatory authority or court having jurisdiction over us and any other authority, local or foreign, including but not limited as part of the implementation of FATCA and the CRS;
  - b) when the disclosure is done in compliance with applicable legislation or regulation or in compliance with a court order;
  - c) when the disclosure is done as part of legal proceedings;
  - d) when the disclosure is done in the public interest or is necessary for the purposes of legitimate interest pursued by us;
  - e) when an act of insolvency commences against you;
  - f) when the disclosure is done to execution brokers, sub custodians, banks or other third parties, including our affiliates where we use them in the provision of Services to you;
  - g) when the disclosure is made in connection with any corporate action.
- 15.6.2 Under certain applicable rules, we may be obliged to make information about certain transactions public or report transactions to authorized authorities. You agree and acknowledge that any and all proprietary rights in such transaction information are owned

by us and you waive any duty of confidentiality attaching to the information which we disclose.

15.6.3 Where in the provision of Services to you, we use execution brokers, sub custodians or other third parties, including our affiliates, we will take all necessary measures to ensure that this confidentiality clause is binding upon them as well. Our responsibility extends to confirming in writing that such third parties have in place appropriate measures to safeguard the confidential nature of your information and that such information is used solely for the purposes of the Service being provided through such third parties with respect to these Terms.

## **16. Fees, Commission and Charges**

- 16.1 Details of the fees and charges payable to us for rendering the Services are set out in Appendix 3 to these Terms and the relevant tariff plan will apply as provided under the Investment Services Agreement and the Appendix 3.
- 16.2 Where we increase or introduce any new charges and make any amendments to the Appendix 3 hereto, we will notify you in accordance with the provisions of these Terms before they take effect.
- 16.3 We may also charge for incidental banking-related fees not listed in the Appendix 3 hereto such as wire charges for deposits/withdrawals and returned check fees.
- 16.4 In certain circumstances additional fees not listed in the Appendix 3 hereto may include statement charges, order cancellation charges, account transfer charges, telephone order charges or fees imposed by any interbank agency, bank, contract, market or other regulatory or self-regulatory organisations arising out of our provision of the Services.
- 16.5 You may incur additional fees for the provision of optional, value added services we may offer from time to time.
- 16.6 You hereby agree and confirm that notwithstanding any provisions of these Terms and/or the Investment Services Agreement we reserve the right to fix minimum fees to be paid by you as will be specified in Appendix 3 hereto or in any additional agreement.
- 16.7 You may choose different tariff plans for different Accounts opened hereunder. In case no Account is indicated for the tariff plan chosen such tariff plan will apply to all the Accounts opened hereunder unless a particular tariff plan is chosen for a particular Account, provided You meet the requirements as indicated in the description of a relevant tariff plan.

## **17. Withdrawal from the Account**

- 17.1 You may from time to time decide that you wish to withdraw/transfer a particular asset from your Account(s). To the extent there are sufficient assets/funds required in the Account (after taking



into account any commitments made by us on your behalf as at that time and any outstanding obligations), you may instruct us to withdraw/transfer such assets/funds.

- 17.2 For the purposes of any withdrawals unless a particular Account is stated in the instruction or if there are insufficient funds/assets on the designated Account we reserve the right to make withdrawals from any Account(s) opened under the present Terms of Business.
- 17.3 We will execute the relevant withdrawal or transfer requested by you only after receipt from you of the details of the account to which such withdrawal/transfer is to be made.
- 17.4 When withdrawing any assets you shall take into account that the balance remaining shall be sufficient to cover any present or future, actual or contingent or prospective obligations, including but not limited to taxes to be levied in accordance with the applicable legislation, fees, charges, costs and expenses of ACM to be reimbursed, any remuneration of third parties for the services provided under these Terms of Business or transactions executed as of the date of the withdrawal. Hereby you authorize us at our sole discretion to reserve the sum required as determined by us and to reduce the amount to be returned to you by the amount required to cover all such obligations, fees, charges etc.. In case for any reason the remaining balance is insufficient to cover all such obligations, fees, charges etc. you hereby confirm and agree to provide necessary sum as instructed by us but in any way not later than 14 (fourteen) calendar days, if you fail to provide the required sum within this term we may sell any financial instruments at our own discretion, exchange currencies as we deem appropriate or take any other actions, we consider necessary without a notification, a separate agreement with or instruction from you. In case any balance remains after all applicable payments have been made, we will return such a balance to your Account(s).

## **18. Taxation, Legal and Accounting Issues**

- 18.1 In relation to the Services to be provided we will not be responsible for ensuring that you do not suffer any adverse tax consequences as a result of us providing any Services to you. We are not responsible for, nor will provide you with tax, legal or accounting advice and you should consult your own tax, legal or accounting advisers in relation to your affairs as may be applicable.
- 18.2 You are responsible for payment of all taxes (local or foreign) that may arise in respect of any transaction or other matter that is the subject of these Terms of Business, whether under current or changed law or practice. ACM shall not be responsible for notifying you of any change in tax law or practice.

## **19. FATCA/CRS**

- 19.1 Regulations based on the OECD Common Reporting Standard ("CRS") require us to collect and report certain information about an account holder's tax residency. If the account holder's tax

residence is located outside the United Arab Emirates, we may be legally obliged to pass on the information in this form and other financial information with respect to your financial accounts to the United Arab Emirates Ministry of Finance and they may exchange this information with tax authorities of another jurisdiction or jurisdictions pursuant to intergovernmental agreements to exchange financial account information. If the account holder is a U.S. tax resident under U.S. law, you should indicate that the account holder is a U.S. tax resident and you may also need to fill in an IRS W-9 form. For more information on tax residence, please consult your tax adviser or the information at the OECD automatic exchange of information portal.

## 20. Liability for Loss and Indemnities

- 20.1 Neither we nor any person connected with us nor any of our agents shall be under any liability whatsoever for any loss or damage sustained by you as a result of or in connection with the Services to which these Terms apply and the provisions of these Terms except insofar as and then only to the extent that such direct loss or damage is caused by our gross negligence or wilful default or fraud. Without prejudice to the generality of, but subject to, the foregoing we do not accept liability for any adverse tax consequences which may arise as a result of the purchase, retention or disposal of Investment by you.
- 20.2 We shall not in any event be liable to you (or anyone claiming through you) for indirect, special, moral or consequential loss or damages, costs, expenses, or other claims (caused by negligence or otherwise), missed opportunities, loss of profits, loss of goodwill, loss of opportunity or loss of anticipated savings, howsoever arising, we shall not be liable for any loss of opportunity whereby the value of your securities may have been increased nor for any reduction in the value of your securities as a result of market movements. Our entire liability in connection with these Terms shall not exceed the amount of the fees payable for the provision of the applicable transaction in question.
- 20.3 We shall not be liable to you or be deemed to be in breach of these Terms by reason of any delay in performing, or any failure to perform, any obligations in relation to the Services provided by us, if the delay or failure was due to any cause beyond our reasonable control.
- 20.4 Neither we nor our affiliates will be responsible for, and you will indemnify and hold us harmless from, any liability
- 1) arising out of its compliance with any applicable laws, any tax obligations, agreements with tax authorities, or its own policies;
  - 2) arising out of any failure or shortfall by us to comply with its obligations caused by your breach or noncompliance with these Terms and/or applicable laws.
- 20.5 You agree to indemnify and hold harmless ACM and its affiliates, the respective directors, officers, agents and employees of ACM and its affiliates (collectively with ACM the “**Indemnified Persons**”) and all Indemnified Persons fully and effectively indemnified (whether before or after

termination of the Investment Services Agreement) from and against any and all losses, proceedings, claims, damages or liabilities (or actions in respect thereof) related to or arising out of the services provided by an Indemnified Person in connection with these Terms. The provisions of this indemnity clause shall remain operative and in full force and effect regardless of any termination or completion or expiration of these Terms.

- 20.6 Nothing contained in these Terms shall exclude or restrict any duty or liability which we may have under the regulatory system applicable to the ADGM.

## **21. Recording**

- 21.1 You hereby acknowledge and agree that any telephone calls made between us, our agents or representatives, or you or your agents or representatives or any third parties may be recorded by us. Our records of all communications, commitments, notices or requests given by you or your agents or your representatives or any third parties by telephone shall be conclusive proof thereof and such records shall be our sole property. We may rely and act on commitments, notices or requests without any receipt of written confirmation.
- 21.2 For the purpose of provision of Services, please note that we are obliged to record all related communications irrespective of their form or the fact that it leads or not to the provision of Services. By accepting these Terms of Business, you provide your consent to the recording of your communications with us, either these are in a written form or through phone. Communications on non-recorded mediums, such as employees' personal phones or emails, will not be accepted and we will deny to provide any Services subject to these means of communication.
- 21.3 We are obliged to maintain sufficient records in relation to the Services provided to you for a minimum of six years, in accordance with COBS Rule 3.7.1.

## **22. Amendment**

- 22.1 We may amend or supplement the terms and conditions of these Terms of Business at our own discretion by publishing an updated version of these Terms of Business on our website. You undertake to review our website on a regular basis.
- 22.2 Unless otherwise prohibited by applicable laws or regulations, any amendment(s) to these Terms of Business will take effect on the Business Day following the date of publication.
- 22.3 Any amendment(s) to these Terms of Business will be deemed accepted by you if continue to use our Services.
- 22.4 If you do not agree to the changes made to these Terms of Business, you have the right to terminate the Investment Services Agreement in accordance with provisions thereof.

## 23. Termination

### 23.1 On termination of the Investment Services Agreement:

- (i) any and all amounts due from you to us or any third party under or in connection with these Terms of Business and the Investment Services Agreement (including any costs or fees incurred or to be incurred in connection with its termination and any contingent and future liabilities) shall become payable immediately, and you will be responsible for the settlement of any unpaid sums;
- (ii) the pledge and charge as may have been created pursuant the provisions of these Terms of Business and the Investment Services Agreement shall continue to remain in full force and effect, and we may (without any further notice to or demand on you) exercise any right of set-off, and may for these purposes convert and set off credit and debit amounts in different currencies and make reasonable estimates as to the amount payable or due in respect of any future or contingent claim or obligation pursuant to these Terms of Business and the Investment Services Agreement;
- (iii) we or any of our affiliates shall be entitled to retain and/or realise, or direct any affiliate or, as the case may be, any counterparties, dealers, custodians, intermediaries and others, to retain and/or realise, any assets as may be required to settle transactions already initiated, to pay any of your outstanding liabilities, including accrued fees or charges pro rata for the relevant period of any ongoing Services, to meet any of the obligations set out herein or in the Investment Services Agreement or to fulfil any obligation to indemnify us.

23.2 Termination will be without prejudice to the completion of transactions already initiated, which we may complete at our sole discretion or otherwise. Notwithstanding the termination of the Investment Services Agreement, the obligations of each party under these Terms shall continue to be governed by these Terms until such obligations remain outstanding. Termination will not affect accrued rights, indemnities, existing commitments or any contractual provision intended to survive termination and will be without penalty or other additional payment, save as set out in the Investment Services Agreement. You will pay (i) our fees as set out herein (ii) any additional expenses necessarily incurred by us as a result of the termination of the Investment Services Agreement including any third party costs (iii) any outstanding amounts owed to us. Any amount due to you from us will be paid on the termination of the Investment Services Agreement, provided there are no outstanding amounts due from you, in which case the amounts payable to you will be set off against the amounts due to us.

## 24. Delegation

24.1 You authorize us to delegate any of our functions and responsibilities under these Terms to ACM's affiliates or any of our external service providers (with or without power to sub delegate) when we reasonably consider these parties to be capable of discharging those functions and

responsibilities to the same standards that we would, and enter into appropriate arrangements. These parties may be located in jurisdictions outside the ADGM.

24.2 Our liability to you for the matters delegated will not be affected as a result. You authorise us to delegate all functions and responsibilities without obtaining any prior or further consent from you.

## **25. Force Majeure**

We shall not, in the absence of fraud, negligence and wilful default, be in breach of our obligations under these Terms of Business if in our reasonable opinion, there is any total or partial failure of performance of our duties and obligations occasioned by any act of God, fire, act of government or state, act or acts of terrorism, war, civil commotion, insurrection, embargo, inability to communicate with the market or market participants for whatever reason, failure of any computer dealing or settlement system, prevention from, interruption or hindrance in obtaining any energy or other supplies, interruption of power supply or electronic, communication or information system, labour disputes of whatever nature or late or mistaken delivery or payment by any bank or counterparty or any other reason (whether or not similar in kind to any of the above) beyond our control, we shall not be liable or have any responsibility of any kind for any loss of damage thereby incurred or suffered by you.

## **26. Illegality**

Invalidity of an article hereof shall not affect the validity of all the remaining articles. Should an article prove to be invalid, we shall replace it with a new forms of words, to the maximum extent possible resembling the previous article by its legal and economic purport.

## **27. Entire Agreement**

These Terms of Business cancel and supersede any other terms of business agreed by the parties prior to these Terms of Business on the same subject matter.

Invalidity of an article hereof shall not affect the validity of all the remaining articles. Should an article prove to be invalid, ACM shall replace it with a new forms of words, to the maximum extent possible resembling the previous article by its legal and economic purport.

## **28. Governing Law, Place of Jurisdiction**

28.1 The present Terms of Business are exclusively governed by, interpreted, and enforced in accordance with the laws of the ADGM, without regard to its conflicts of laws principles.

- 28.2 Any dispute, controversy or claim arising out of or in relation to these Terms of Business, including the validity, invalidity, breach or termination thereof, shall exclusively be submitted to the jurisdiction of the Courts of the ADGM.

## 29. Online Account

- 29.1 We may provide you with access to the online through the ACM's web-site or by means of a mobile application (name of the application: ACM) available for downloading on the mobile phones on Android and iOS platforms, available in the official stores Google Play or AppStore (the "Online account").
- 29.2 For the purpose of access to the Online account your phone number provided in the Client Application Form and the password set by you will be used. For the purposes of authentication you may be required to use the personal identification code and/or a password provided by ACM (which may be a one-time password sent to your mobile or email provided in the Client Application Form) or use any other methods of identification agreed by the Parties.
- 29.3 You undertake to treat the access rights, all Online account documentation and information available through the Online account strictly private and confidential at all times.
- 29.4 For the purpose of this clause password means any confidential alphanumeric code, phrase, code or number, memorable data or any other identification of any kind either issued by us to you or adopted by you and which is used either alone or with any username, Login ID or other methods of identification as may be agreed by the Parties to access or use the Online account. You undertake not to disclose your password to any other person, and you acknowledge that you are entirely responsible for ensuring that the password is kept secret and not used by any other person and/or for any unlawful or fraudulent purpose. You acknowledge that in the event your password is known to another third party, then the said third party shall be treated by us as an authorized user, and we shall not be responsible for any loss or damage which may occur as a result of the said event. You undertake to immediately inform us if you know or suspect that another third party has learned of your password and/or has access to your Online account.
- 29.5 You acknowledge that unless otherwise required by applicable ADGM law, we shall not be liable for any loss, injury or damages, whether direct, indirect, special, incidental, exemplary, consequential, punitive, economic or lost profits, whether under a contract, tort or any other theory of liability, arising in any way, inter alia, out of the installation, use or maintenance of any equipment, mobile, software, the use of Online account, the internet browser or internet access software, interruption of connection, any disruptions, equipment errors including of the telephone operator even if we are advised in advance of the possibility of such loss, injury and or damages. For avoidance of doubt we shall be liable only for actual loss, injury or damages if such loss, injury or damages arise directly out of the gross negligence act or fraud on our part.

- 29.6 You warrant and represent that no person shall have access to your Online account other than you and you shall take all necessary care to enforce this undertaking and shall be responsible and liable for any misuse of your Online account by unauthorized persons. Without prejudice to the preceding sentence, it is understood that any and all actions executed through your Online account will be deemed to be executed by you, will bound you and we will not be responsible for acting on the basis of, relying on any actions executed by an unauthorized person through your Online account and you will be responsible and liable for any losses or damages arising out of or in connection thereto.
- 29.7 The Online account will be used for the purpose providing you with access to the information regarding the Account(s) and your assets and any other information and material made available by us through the Online account.
- 29.8 In case you use the Online account through the mobile application the scope of services may differ from those available through the use of ACM's web-site and will include execution of documents using the electronic signature in addition to electronic receipt and transmission of information, instructions, reports, notices and any other data and documents that may be provided, communicated and exchanged under these Terms of Business. The use of the Online account both through the use of ACM's web-site and through the mobile application will be governed by these Terms of Business.
- 29.9 Any material downloaded or otherwise obtained through the use of the Online account is obtained at your own discretion and risk, and we are not responsible for any damage to you or data or any other loss or damage that results from the download or use of any such material, whether due to any computer virus or otherwise. We make no representation or warranty as to the completeness, accuracy, reliability, or currency of any third party information or data that you may have obtained through the use of the Online account.
- 29.10 You are solely responsible for ensuring that any equipment with which you access and use the Online account is suitable for such use and is functioning properly, which includes without limitation, ensuring at all times the availability of sufficient storage space for downloading if required.
- 29.11 We shall not be liable for any delay in, or failure to, provide the services through the Online account or non-availability of Online account as a result of factors outside our reasonable control including without limitation any act of God, act of government or regulatory authority, war, fire, flood, explosion, terrorism, riot or civil commotion, or non-availability, non-functioning or malfunctioning of internet services provider(s), broadcast telecommunications or other network systems or services.
- 29.12 By signing the Investment Services Agreement you confirm your understanding that the use of the Client's online account is at your own risk, confirm your awareness and acceptance of the risks that such use incurs, including, but not limited to risks of unauthorized access, and accept full responsibility for such use and consequences thereof. You acknowledge that the website and

online services are made available to you by ACM on an “as is” and “as available” basis without any representations, warranties, conditions or undertakings of any kind, whether express or implied.

- 29.13 When any document is signed through Online Account, such document will be deemed to be originating from you. You will bear any and all risks connected with unauthorized use and execution of documents through the Online account.
- 29.14 Any document signed through the Online account will be valid and binding and will have the same legal force as a document signed in hard copy by hand written signature and cannot be challenged on the basis that they have been executed through the Online account.
- 29.15 By requesting a one time password when signing the documents you confirm your understanding and agree that for the purposes of execution of documents through the Online Account one time password in a form of a code provided to you by SMS message or PUSH notification or to the email indicated in the Client Application form will be used and such a code will be treated as your electronic signature.
- 29.16 By signing the Investment Services Agreement you provide your consent to receive one time passwords to the phone number and email indicated in the Client’s Application Form including in a form of SMS message or PUSH notification.
- 29.17 The preferred method of provisions of a code referred to above is a PUSH notification, such a notification may be provided in case the Client has authorized such type of notifications to be provided by the application. In case the Client has not authorized such type of notifications to be provided by the application the Client will receive an SMS message. In case of any technical failure when sending a PUSH notification an SMS message will be sent. In case of any difficulties with sending a code by SMS message the code will be sent to the email of the Client indicated in the Client Application form.
- 29.18 For the purposes of validation of the electronic signature when one-time code is used the code entered by the Client when signing the document will be compared to the code sent to the Client’s mobile number by SMS message or a PUSH notification or to the Client’s email indicated in the Client Application Form. In case the comparison is positive the authenticity of the electronic signature is confirmed.
- 29.19 You are obliged (i) to keep secret any passwords, including one time passwords that have been received by SMS message on the mobile number or sent to your email indicated in the Client Application Form or in a form of a PUSH notification and any other information connected with authentication and shall take all actions to prevent any breaches of confidentiality thereof, (ii) not to transfer to any third persons the SIM-card with your mobile number to avoid breach of confidentiality; (ii) not to transfer the mobile phone to any third persons on which the Online Account is available before termination of an active session, (iii) to immediately inform ACM by email or telephone in case of any breaches of confidentiality of any passwords or information



related to your authentication or loss thereof and/or of any unauthorized access to your Online account and/or of any circumstances that prevent you from using your Online account.

- 29.20 You are liable for provision of wrong mobile number and email (that do not exist or do not belong to you) and for untimely informing ACM of any breaches of confidentiality, and you are responsible for other obligations of yours described herein or any unauthorized access to your Online account and consequences thereof.
- 29.21 We reserve the right not to accept any documents signed through the Online account including when we determine that the information provided by you in the Client Application form is not correct or is wrong in any nature (e.g. the phone number does not exist or is used by another user).
- 29.22 We will not in any circumstances be liable for correctness of the phone number or email address indicated by you in the Client Application form.
- 29.23 By signing the Investment Services Agreement you confirm your understanding and agree that any data connected with execution of any documents through the Online account will be stored in cloud data store and in case of any disputes the data stored in such a way will be used as evidence. Such information as technical tags (ip-address of the Client, identification of a device that was used for the purposes of signing, full version of the screen data including the details of the relevant document, Client's account identifier, the code and time it is sent etc) connected with execution of documents will be recorded and stored in the relevant cloud data storage. ACM will at its sole discretion choose cloud service providers that ACM believe to be secure and reputable and meeting best market practices.
- 29.24 The Client shall indemnify and hold harmless the Indemnified Persons (as this term is defined herein) from and against any and all losses, claims, damages or liabilities (or actions in respect thereof) related to or arising out of the use by the Client of Online account, unauthorized use of the Online account, access to any information available through Online account, receipt, transmission or execution of any documents through the Online account, services performed by an Indemnified Person in connection with the Online account. The provisions of this indemnity clause shall remain operative and in full force and effect regardless of any termination or completion or expiration of these Terms of Business and the Investment Services Agreement.

### **30. Interpretation**

- 30.1 In these Terms the following general rules of interpretation shall apply unless the context otherwise requires: a reference to one gender shall include all genders; the singular shall include the plural and vice versa; and references to persons shall include bodies corporate, unincorporated associations and partnerships or one or more of the foregoing. Unless the context otherwise requires, references in these Terms and Conditions to any FSRA/ADGM Rules, statute or statutory provision shall be construed as a reference to the same as it may from time to time be amended, modified or re-enacted.

30.2 The appendices set out below are hereby incorporated by reference and shall form an integral part of these Terms.

- A. Appendix 1: Communication
- B. Appendix 2: Risk Disclosure Statement
- C. Appendix 3: Fees and charges