

# Adviser Terms and Conditions

Transact

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Integrated Financial Arrangements Ltd (registered number 03727592) of 4th Floor, 2 Gresham Street, London EC2V 7AD ('IFAL') owns and operates the Transact wrap service (the 'Transact Service' or 'Transact'). IFAL is a registered ISA manager and SIPP operator. IntegraLife International Limited ('ILInt') is the provider of the Transact Offshore Bond and is a wholly-owned subsidiary of IntegraFin Holdings plc ('IHP'). IntegraLife UK Limited ('ILUK') is the provider of the Transact Onshore Bond and the Transact pension products (other than the Transact SIPP) and is also a wholly-owned subsidiary of IHP.

Transact Trustees Limited ('TTL') is the trustee of the Transact SIPP and the Transact Personal Pension, holds bank accounts for the benefit of Clients where term deposits are placed and is a wholly-owned subsidiary of IHP. Transact Nominees Limited ('TNL'), also a wholly-owned subsidiary of IHP, holds the legal title to Client assets and assets to which ILUK Clients' life policies are linked. IFAL, ILInt, ILUK, TTL and TNL together comprise the 'IHP group of companies'.

This document (including this page) sets out the terms and conditions which govern your association with the IHP group of companies ('us') and your use of the Transact Service ('Transact Adviser Terms and Conditions'). The Transact Adviser Terms and Conditions, together with the Transact Adviser Firm Application and, where relevant, the Transact Adviser Application, the Transact Super User Access Application and Transact Remote Data Service Application, submitted from time to time, create a legally binding agreement between you and us in relation to all transactions involving you, your Registered Individuals, your Secondary Users, us, Clients and/or any third parties (including, but not limited to, Discretionary Investment Managers appointed by a Client or by you as agent for a Client).

The Transact Adviser Terms and Conditions will continue for as long as you remain the authorised Adviser for any Client using the Transact Service, or we continue to make any Payments to you or corrections to any Payments you have received.

## 1. Definitions

In these Transact Adviser Terms and Conditions the singular shall include the plural and vice versa, and the following terms shall have the meanings respectively ascribed to them.

References to any legislation include any amendment or subordinate legislation enacted pursuant to it or any consolidation or replacement of it.

References to any government or regulatory body shall be to that body and to any successor bodies or organisations from time to time of that body.

References to clauses are to clauses of the Transact Adviser Terms and Conditions unless otherwise expressly stated herein.

**Act** – The Financial Services and Markets Act 2000 (as amended from time to time)

linked at the time in question, and operated by us in accordance with clause 7.1

**Adviser** – An FCA authorised financial adviser firm registered with us, holding the appropriate advisory permissions, and appointed by a Client to provide intermediary services with regard to the Client's Portfolio

**Annual Payment** – The Payment type described in clause 10(2) of the Transact Client Terms and Conditions

**Adviser Payment Account** – The account designated by us in the name of the RI to whom the Client is

**Business Day** – A day on which the London Stock Exchange and banks in England and Wales are open for business

**Cash** – A Client's money as held in a Portfolio

**Client** – A natural or legal person (including trustees and companies) who has provided us with a completed Transact Portfolio Application, has a Portfolio with us, and who has notified us in a form acceptable to us that you and (where relevant) your RI are appointed by them to undertake transactions for and on their behalf and to provide them with financial advice in respect of their Portfolio

**Client Personal Data** – Any information relating to an identified or identifiable living individual, as defined by the Data Protection Act 2018

**Discretionary Investment Manager or DIM** – An FCA authorised investment management firm a Client, or you as their agent, has appointed to manage and make investment decisions about Investments and Cash in their Portfolio

**FCA** – the Financial Conduct Authority or its replacement or successor

**Financial Adviser Network** – A firm or company which you as an Adviser engage to facilitate the operation of your business

**Instruction** – a direction from you, your Client, or the appointed Discretionary Investment Manager about a Portfolio which we receive or which we treat as having been received from you, your Client, or the Discretionary Investment Manager in line with these terms and conditions or any other terms and conditions which may apply to a particular Wrapper

**Investment** – Any asset, other than Cash, which is held in a Client's Portfolio

**Investment Provider** – The provider of an Investment

**IOMFSA** – Isle of Man Financial Services Authority

**MiFID II** – Collectively the Markets in Financial Instruments Directive 2014 and the Markets in Financial Instruments Regulation 2014 (including any United Kingdom enactment or transposition of the whole or a part thereof)

**Month** – A calendar month

**Party** – You or us (and parties shall mean both you and us)

**Password** – a password or other form of security credential for access to our website, 'Transact Online'

**Payment** – The monies agreed to be paid to you by a Client from time to time and notified to us by a Client to be deducted from such of that Client's Portfolio(s) as are permissible, or required, by applicable law and regulation

**person** – Any real or legal person, including a company, partnership, joint venture, association, corporation or other body corporate or trust

**Portfolio** – All of the Wrappers held by a Client pursuant to the Transact Client Terms and Conditions

**Portfolio Value** – The value of all Investments and Cash held in a Portfolio

**PRA** – the Prudential Regulation Authority or its replacement or successor

**PRIIPs** – Packaged Retail Investment and Insurance-based Product Regulations 2014 (including any United Kingdom enactment or transposition of the whole or a part thereof)

**Registered Individual or RI** – A person who is appropriately approved by the FCA, or, where/when applicable, has been certified by you under the Senior Managers and Certification regime, as appropriate, and who is also authorised by you to conduct investment business and/or issue Instructions to us in respect of transactions for and on behalf of Clients on your behalf

**Secondary User** – A person within your firm to whom you have granted access of the kind described in, and on the basis set out in, clause 5.2 below

**Security Incident** – Any event or combination of events that impacts the confidentiality, integrity or availability of your IT systems or information that is stored and/or processed on your IT systems. Such incidents can include, but are not limited to, attempted or actual unauthorised access, data breaches, distributed denial of service (DDOS) attacks and malware infections

**Super User** – A person to whom you have granted access of the kind described in, and on the basis set out in, [clause 5.2](#) below

**Transact Adviser Application** – Our form A002 or its successor

**Transact Adviser Firm Application** – Our form A001 or its successor

**Transact Client Terms and Conditions** – The agreement between a Client and us containing the terms and conditions of the operation of each Portfolio, including but not limited to; all and any Transact forms, Transact terms of business (The Terms and Conditions for the Transact wrap service including, in respect of a particular Wrapper, those related expressly to that particular Wrapper), Client notices, and side agreements between us and each Client

**Transact or Transact Service** – The Transact wrap service owned and operated by us, which is accessible via Transact Online

**Transact Online** – Our website, [www.transact-online.co.uk](http://www.transact-online.co.uk)

**USA** – the 50 States of the United States of America and the District of Columbia, the Commonwealth of

Puerto Rico, Guam, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Atoll, the Northern Mariana Islands, and any other trust territory or possession of the United States

**User** – Anyone who logs onto Transact Online using a Password associated with you

**Vulnerable Client** – a Client who is, whether temporarily or permanently, experiencing a reduced ability to appropriately manage personal affairs or make financial decisions that are in their own best interests, through personal or external circumstance

**we, our and us** – Integrated Financial Arrangements Ltd for itself and for each member of the IHP group of companies

**Wrapper** – A tax or legal structure in which the Investments and Cash in a Portfolio are held

**you and your** – The firm named as an Adviser in Part 1 of the Transact Adviser Firm Application and, where the context admits, associates of that firm also providing services to the relevant Client.

## 2. Introduction

- (1) We may delegate any of our obligations under these Transact Adviser Terms and Conditions to third parties (subject to any statutory or regulatory limitations).
- (2) A letter of confirmation for all Investment purchases or sales made by Clients (excluding those carried out automatically on a regular basis) will be available to your RIs (as well as to Clients) on Transact Online as soon as they are completed.
- (3) We operate a telephone recording system and calls may be recorded. To ensure the accuracy of the information you receive your call may be monitored and the recording may be used for training purposes or to improve our services. You hereby consent to the recording of your calls and you hereby represent and undertake that you have secured, for our benefit, the consent of your RI, Super Users, Secondary Users and any other person you authorise to call us on your behalf to the recording of their calls prior to requesting that we grant them access as your RIs or otherwise under these Transact Adviser Terms and Conditions. We will retain copies of recordings at least seven years and for as long as is required by regulation and will make these available to you upon request.

## 3. Regulation

- (1) We are authorised and regulated by the FCA, PRA and IOMFSA, as appropriate to the applicable Group entity.
- (2) We provide an execution-only service and are not authorised to make recommendations or give advice to anyone about the merits or relative suitability of any transactions or Wrappers, Portfolio(s), the Transact Service, or any other person providing services to a Client (including, but not limited to, an Adviser or DIM).

Nor do we provide any such recommendations or advice relating to any underlying Investments. For the avoidance of doubt, we are also not authorised to manage Investments or make investment decisions.

- (3) You undertake to maintain adequate professional indemnity insurance to cover all liabilities that may arise under or in connection with these Transact Adviser Terms and Conditions. Should your professional indemnity insurance lapse or if you are unable to secure professional indemnity insurance you undertake to inform us immediately.
- (4) You are responsible for:
  - i. complying with the FCA's vulnerable client rules including the obligation to support Vulnerable Clients in understanding information, making informed decisions, and avoiding foreseeable harm;
  - ii. identifying Vulnerable Clients and taking reasonable steps to support such Vulnerable Clients;
  - iii. maintaining appropriate and accurate records of such Vulnerable Clients; and
  - iv. notifying us of any Vulnerable Clients and providing us with any requested information relating to Vulnerable Clients.
- (5) Where you are acting as an Adviser and not as a Discretionary Investment Manager, subject to clause 6 below, you represent and undertake that on each occasion that we receive an Instruction from you in respect of your Clients (such representation and undertaking to be deemed to be repeated on each occasion on which any such Instruction is received by us) you have:
  - i. a valid Instruction and/or authority from your Client(s) enabling you to give us the Instruction on their behalf and, where the Instruction or authority you submit is validated by an electronic signature inserted by a Client, you have ensured that the Instruction is genuine;
  - ii. supplied your Client(s) with all the appropriate disclosure and product documentation, including but not limited to, a key facts/ features document/ features illustration, a key investor information document ('KIID'), a PRIIPs key information document ('KID'), costs and charges information and other required disclosures under MiFID II, the Transact Guide to Investment Risks, our Standard Privacy Notice and any Wrapper specific privacy notices, the prospectus and/or information memorandum relating to the relevant Investments, and are complying with any and all relevant restrictions and/or requirements stipulated in those documents in the course of advising your Clients and providing us with Instructions;
  - iii. provided your Clients with appropriate investment advice in respect of each of the relevant Investments or, where you have not advised, you have undertaken an appropriateness assessment for any Investments you have assessed as complex;
  - iv. in respect of a purchase Instruction, made an assessment as to your Client's eligibility to invest into the Investment for which you provide an Instruction and have (a) reviewed the relevant documentation of the Investment and can confirm that your Clients meet the eligibility criteria for the Investment, which includes, but is not limited to, all residency or nationality requirements; and (b) verified the information on which that assessment of eligibility is founded. Accordingly, you undertake to provide us with evidence of such eligibility and verification upon request;
  - v. in respect of a Portfolio or Wrapper application, made an assessment as to the Transact Service, Portfolio or Wrapper's suitability for the Client and provided related investment documentation and advice about its suitability to the Client;

- vi. ensured that the Client is not categorised as a “US Person” as defined by the 1933 US Securities Act
  - vii. complied with all applicable laws, regulations and/or selling restrictions in respect of that Instruction and you must notify us immediately if you are in breach of any applicable laws or regulations of the jurisdiction in which you are distributing an Investment.
- (6) If you are both the Client’s Adviser and their Discretionary Investment Manager, when acting as the latter, you represent and undertake that on each occasion that we receive an Instruction from you, you are communicating your investment decision in respect of your Client’s Portfolio to us and that you have in this capacity or as Adviser complied with clauses 3(4) (iv), (v) and (vii) above (such representation and undertaking being deemed to be repeated on each occasion on which any such Instruction is received by us).
- (7) You understand and agree that:
- i. you will provide us, promptly, with all information and documents we request to enable us to comply with our regulatory obligations. For example, we will ask you to identify Clients within the “negative target market” (established by the Investment Provider) and we may ask for details of a Client’s “legal entity identifier”;
  - ii. if we provide you with information, tools and/or services designed to assist you to comply with your regulatory obligations or undertake regulated activities, we do not guarantee that such information, tools and/or services will ensure compliance with those obligations or that they may be relied upon in relation to conducting your regulated activities. Further, we accept no liability in relation to any use of the information, tools and/or services provided;
  - iii. you will provide Investment Providers with such reasonable information as they may request to conduct product reviews (required by the FCA PROD rulebook) including, but not limited to, summary complaints information, sales information relating to target market and summary information on Clients;
  - iv. you are responsible for managing and overseeing the suitability of DIM services provided to Clients including, but not limited to, ensuring that:
    - a. the DIM is aware at all times of the scope of their role, mandate and authority and the extent of the Cash or Investments that the DIM is authorised to accept, transfer, manage, buy, sell or re-balance at any point in time (including in particular, but without limitation, telling us and the DIM when they are no longer authorised to manage a Client’s Portfolio or any part of it);
    - b. Taking all necessary steps, including issuing a specific Instruction to us in good time (referencing the deadline) if Investments and Cash should be excluded from a re-balance, so we can take steps to exclude those Investments and Cash from the re-balance.
  - v. If a Client suffers any loss (for example, but without limitation, because a rebalance takes place and is applied to Investments and Cash that the Client wishes to exclude from the rebalance) we accept no liability for any such loss or associated costs or damages, except to the extent we have not actioned your Instruction correctly subject to the provisions set out in the Terms and Conditions for the Transact Wrap Service.
  - vi. you represent and undertake that where you have appointed a DIM where you are acting as agent for a Client, you are properly authorised in writing by that Client to do so. You understand and acknowledge that we require a Client’s authority in a form acceptable to us before we can provide a DIM with access to a Client’s personal data on Transact Online, accept any Instructions from a DIM or make payments from a Client’s Portfolio to a DIM howsoever appointed. Additionally you understand

and acknowledge that before a DIM can be given access to Transact Online they must complete the Transact Third Party Registration process and will not be able to manage Investments for a Client until we have received the appropriate notice from the relevant Client.

## 4. Becoming Registered with Transact

### 4.1 Generally

- (1) In entering into these Transact Adviser Terms and Conditions you are representing and warranting to us, such representation and warranty to be deemed to be repeated on each occasion on which you or any RI or Client of yours undertakes any transaction on Transact Online, that you are authorised under section 31 of the Act, that such authorisation includes as a minimum authorisation for the arranging of trades in and for advising on Investments (including where you are a DIM for managing investments), and that any person contacting us in your Adviser firm's name to undertake a transaction or issue an Instruction via Transact Online is an RI or an authorised Secondary User.
- (2) Once we have received and processed your fully completed Transact Adviser Firm Application we will issue you with your Transact access number. Under separate cover we will send you your Password. Unless and until you receive such confirmation from us the agreement constituted by these Transact Adviser Terms and Conditions and our Transact Adviser Firm Application shall be of no force and effect.
- (3) You agree to co-operate with us and provide us with any information or documentation we may reasonably request from you from time to time in order to permit us to comply with any of our regulatory or legal obligations, including evidence of your compliance with these Transact Adviser Terms and Conditions.
- (4) Your Password will enable you and your RI(s) to view and, where authorised pursuant to the Transact Adviser Firm Application, give Instructions on your Clients' Portfolios via Transact Online and to view such other records of your dealings with us as we shall make available from time to time via Transact Online.
- (5) You are prohibited from allowing any third party access (including, but not limited to, persons who are not your RIs) to your Password. You must notify us immediately if you believe that a third party may have obtained access to, or knowledge of, your Password and we will deactivate it and issue a new Password to you. We shall be entitled to treat all Instructions issued using the Password which we have issued to you, and which has not been deactivated by us, as your Instructions and you will indemnify us and keep us indemnified against all and any loss suffered by us and/or claims brought against us for or as a result of our acting on this basis.
- (6) Notwithstanding the terms of clause 4.1(5), if we have reasonable grounds to believe that a third party has obtained access to or has knowledge of your Password, we reserve the right to cancel your Password and send you a new one.

### 4.2 Change to or loss of FCA authorisation

- (1) Without prejudice to clause 4.1(1) above, should your regulatory authorisation status or permissions as declared on your Transact Adviser Firm Application to us change or cease to be valid for any reason or in any way you must notify us immediately, setting out the manner in which such authorisation has been changed or has ceased to be valid.
- (2) Further without prejudice to clause 4.1(1) above, should we feel at any time that you are no longer appropriately authorised under the Act, we reserve the right to withdraw any services we are otherwise obliged to provide to you under these Transact Adviser Terms and Conditions or any third party Discretionary

Investment Manager under our Third Party Terms and Conditions or any other agreement we may have with them. You will nevertheless remain bound by these Transact Adviser Terms and Conditions at all times.

## 4.3 Registered Individuals

- (1) You must ensure that no person submits a Transact Adviser Application in your name who is not an RI of your Adviser firm or a Super User registering an RI of your Adviser firm (see clause [5.2](#) below). Without prejudice to the generality of the foregoing obligation, you shall ensure that you check and update the list of your RIs as it appears on Transact Online on a frequent basis and inform us immediately if there is a person set out on that list at any time who is not an RI of your Adviser firm.
- (2) Once we have received their Transact Adviser Application, we will provide the RI with confirmation of receipt and a link enabling them to activate their TOL account. Unless and until they receive such confirmation and activation link the agreement constituted by these Transact Adviser Terms and Conditions and our Transact Adviser Application shall be of no force or effect in relation to that RI.
- (3) You shall ensure that no third party has access (including, but not limited to any of your other RIs) to the Password of a particular RI. You must notify us immediately if you believe that a third party may have obtained access to, or knowledge of, the Password of a particular RI and we will deactivate it and issue a new Password to them. We shall be entitled to treat all transactions undertaken using the Password which we have issued to an RI of yours, and which has not been deactivated by us, as your transactions and you will indemnify us and keep us indemnified against all and any loss suffered by us and/or claims brought against us for or as a result of our acting on this basis.

## 5. Access to Records and Other Information

### 5.1 Generally

In addition to the information generally available via Transact Online:

- (1) Written confirmations of all investment purchases and sales, and cash deposits (other than those done automatically on a regular basis) will be available on Transact Online as soon as they are completed.
- (2) All transaction details and valuations are available on Transact Online.
- (3) As Transact is an execution-only wrap service, it is your responsibility to monitor any corporate action or notifications issued in relation to the Investments your Clients have bought or transferred into their Portfolio. Consequently, unless we agree otherwise, we will not forward to you or your Clients copies of reports and/or accounts or meeting and voting information or other documents about corporate actions issued by Investment Providers.
- (4) To the extent we do provide to you any information in relation to a Client's Investments that has been initially provided to us by an Investment Provider you must promptly review that information and, where there is a regulatory requirement for it to be passed on to the Client, you must do so without delay.
- (5) A Transact access number and a Password can be provided by us for a Super User (e.g. a paraplanner or secretary) to access Client information as your agent and representative, or as the agent and representative of a particular RI, should you request this.
- (6) We may remove all outstanding fee information (that relates to fees owed to your Adviser firm or your RIs) from our records and database 30 days after the closure of a Client's Portfolio. It is recommended that you maintain and keep under review at all times an up-to-date record of all outstanding fees owed to you or your RIs by your Clients.

- (7) If you act as a Discretionary Investment Manager or a third party DIM is appointed, where relevant, the DIM will receive a separate Transact access code and Password in order to access Client information and effect changes to the Portfolio including rebalances of the Client's Portfolio or part of it.

## 5.2 Super User and Secondary User Access

- (1) Super Users have greater Transact Online privileges than their colleagues. They can add, edit and close the Transact Online accounts of Registered Individuals and Secondary Users. They can also authorise access to Client data by a third party authorised by you for that purpose. Where they grant such access to any such third party the provisions of these Transact Adviser Terms and Conditions (specifically clause [5.4](#) below) will apply to that appointment. Multiple Super Users can be appointed.
- (2) Where a Super User adds or edits the Transact Online Account of a Registered Individual we will conduct what due diligence we deem necessary (see clause [4.3\(2\)](#) above).
- (3) Secondary Users may be granted either "read-only" access or "full" access. If the Secondary User has read-only permission this means that only you or your RIs will be authorised to give Instructions via Transact Online. You shall procure that no Secondary User who has read-only permission uses or purports or attempts to use its Password to give or purport or attempt to give Instructions in respect of your Clients via Transact Online or by telephone and you will indemnify us and keep us indemnified against all and any loss suffered by us and/or claims brought against us for or as a result of our executing a transaction as a result of any such Instructions which we may receive.
- (4) Should you request the Secondary User Transact access number and Password be enabled for full access (i.e. the transmission of Client Instructions), the provisions of these Transact Adviser Terms and Conditions in respect of RIs in this regard shall apply as if the Secondary User were an RI in respect of your Clients.
- (5) You must ensure that you inform us immediately if at any time you or any of your Clients withdraws consent for any person with such Secondary User access to have sight of a Client's information.

## 5.3 Access by Registered Individuals

- (1) The access provided by way of the Transact access number and Password will only be granted as described in clauses 4.1, 4.3 and 5.3(4) above.
- (2) Access to information for that RI will be limited to those Clients for whom you have requested they be registered and shall continue for as long as the RI remains accordingly registered in our records and for as long as you remain the appointed Adviser of the Client. Your Password protected pages on Transact Online will contain information about all your Clients and their Portfolios. Your RI will not have this level of access unless you permit it by giving that RI Secondary User access as described in clause 5.2 above.
- (3) You shall procure that no third party has access (including, but not limited to, persons who are another of your RIs) to the Password of a particular RI. You must notify us immediately if you believe that a third party may have obtained access to, or knowledge of, the Password for a particular RI and we will deactivate it and issue a new Password to them. We shall be entitled to treat all transactions undertaken using the Password which we have issued to an RI of yours, which has not been deactivated by us, as your transactions and you will indemnify us and keep us indemnified against all and any loss suffered by us and/or claims brought against us for or as a result of our acting on this basis.
- (4) We reserve the right to refuse to accept any Instruction should we reasonably believe that Instruction has originated from outside of the UK.

## 5.4 Software Provider Access

Where you request that we provide access to a third party software provider:

- (1) The initial access granted to your software provider is limited to developing software to use the Transact Remote Data Service ('TRDS') pursuant to a TRDS agreement entered into between your software provider and us.
- (2) Once we have received the completed Transact Remote Data Service TRDS agreement from you, and a TRDS agreement in agreed terms from your software provider, we will provide you with the ability to set up passwords for software providers via Transact Online.
- (3) You are responsible for carrying out all appropriate due diligence on your software provider and we shall be entitled to assume that you have completed such due diligence when you begin to use their service via Transact. We shall have no liability to you, your Clients or anyone else for the actions or omissions of your selected software provider.
- (4) Where you use a third party application to disseminate information regarding your Clients we will accept no liability for any legal, regulatory or other consequences resulting from the use, misuse, or loss of any such information transmitted and you shall indemnify us, and keep us indemnified, against any and all costs, claims, demands, losses, expenses or liabilities and all other professional costs and expenses suffered by or arising from the use, misuse, or loss of any such information.

## 5.5 Use of Passwords

- (1) The terms of these Transact Adviser Terms and Conditions governing the use of Passwords apply equally to you, any RIs, your software provider and any Super Users or Secondary Users. Please note that their use is subject also to the conditions which accompany them when sent to you or your RIs, your software provider and any Secondary User.
- (2) Unless we have been advised by you that the security of a Password has been compromised prior to its use, every time a Password is used to access and/or download details about your Adviser firm, an RI, a Client or Portfolio, it will be deemed for all purposes that the registered Password holder was the only party who received the information. Should this not be the case, that holder will regardless be held liable for any legal, regulatory or other consequences resulting from the misuse of any such information received or transactions conducted and shall indemnify us, and keep us indemnified, accordingly. As such, we cannot be held liable for any act or omission on our part resulting from the misuse of a Password.

## 5.6 Research, Information and Modelling Software

- (1) We may from time to time make available to you Transact research, information and/or modelling software (of any design and description).
- (2) Neither we nor any third party involved in the development, implementation or provision of any such software warrant or represent to you the accuracy or suitability of such software for your needs or those of your Client.
- (3) The provision of any such software does not constitute advice by us or by any such third party to you or your Client and you shall ensure that this is understood to be the case by your Client in each instance.
- (4) In accessing or utilising any such software you warrant and represent to us and to any such third party, such warranty and representation to be deemed to be repeated on each occasion on which you access or utilise the software, that you have all necessary consents and authorisations in place to allow any and all information which you submit, incorporate or otherwise enter into the software package to be seen, stored and held by ourselves and any such third party.

## 6. Authority to Act

- (1) Without prejudice to the other provisions of these Transact Adviser Terms and Conditions:

- i. We will amend our records to reflect your appointment as the Adviser for a Client who already has a Portfolio following receipt of any of the following:
  - a. Notification from the Client telling us that they have appointed you, such notification to include your details;
  - b. A copy of the Client's agreement with you appointing you as their Adviser, certified as a true copy of the original by one of your RIs or by an accountant, solicitor, barrister, notary or court official; or
  - c. A copy of the Client's letter to you accepting your terms of business, certified as described in clause 6(1)(i)(b) above.

If your Client has more than one Portfolio, we shall be entitled to assume that their request to change Adviser in the form of any of (a) to (c) above relates to all of their Portfolios unless they state otherwise. For the avoidance of doubt, if a Client notifies us that they have appointed a new Adviser this will automatically operate as a termination of the appointment of their then current Adviser with effect from the date of the new appointment. It is not possible for us to recognise the appointment of more than one Adviser in relation to a Portfolio.

- ii. If we are notified of the appointment of a new Adviser in writing from you, as either current Adviser or new Adviser, we will automatically terminate the appointment of the current Adviser but we will not link the Client's Portfolio account to the new Adviser unless we have received confirmation from the Client as specified in clause 6(1)(i) above. Please note that in this scenario until we receive confirmation from the Client appointing the new Adviser, the Client's Portfolio will be listed as having no current Adviser appointed and the provisions of clause 9.1(2) of the Transact Client Terms and Conditions shall apply accordingly.
- iii. If you or your Client wish to terminate your appointment as Adviser, but do not wish to appoint a new Adviser at that time, we will amend our records to reflect this following receipt of a letter from your Client informing us that they no longer wish to have an Adviser/you appointed in respect of their Portfolio. If the Client has more than one Portfolio, we shall be entitled to assume that your letter of termination relates to all Portfolios unless the Client states otherwise.

In each case, the above only applies in respect of changes to Adviser appointments and not to the appointment of RIs. If you wish to change the RI appointed in respect of a particular Client, clause 5.3 will apply. In each case, the change to (or termination of) the appointed Adviser will take place following receipt of notice in accordance with clause 6(1)(i) above and not with effect from any earlier date or time notification to us and/or the new appointment.

Please note that as a result of termination of your appointment as Adviser the authority of any DIM appointed to manage the Client's Portfolio (or part of it) will also terminate. Please note that where a Client has no Adviser, no DIM can be or remain appointed in respect of any part of the Client's Portfolio.

(2) In respect of giving Instructions on behalf of a Client:

- i. where you have a current authority to do so, you may give certain Instructions on behalf of a Client in respect of their Portfolio via Transact Online, by telephone or in writing by way of a letter from you;
- ii. you acknowledge that we may request information regarding the nature and level of support or advice you have provided to a Client in relation to specific Instructions. This may include, but is not limited to, whether the service provided was execution-only, execution-only with an appropriateness assessment, targeted support, simplified advice, advice, or discretionary management. You agree to provide such information promptly and in a format reasonably specified by us and we reserve the right to withhold any associated Adviser charges until you do so;

- iii. an RI may also give such Instructions in respect of those Clients where the RI has current authority to do so using the means set out in clause 6(2)(i) above; and
- iv. each time that you or any RI or DIM instructs us, or purports to instruct us, in respect of a transaction for a particular Client you are representing and warranting that you have the authority of the Client to give us that Instruction or that the DIM remains authorised to give us Instructions to execute their investment decisions on the Client's Portfolio or part of it.
- v. Should you use any third party software to submit an Instruction to us electronically we will be entitled to treat that Instruction as coming directly from you;
- vi. each time that you or any RI or DIM instructs us, or purports to instruct us, in respect of a transaction for a particular Client you are representing and warranting that you have ensured that the Client is not a US Person as defined by the 1933 US Securities Act;
- vii. where the instruction you are giving us is to nominate a beneficiary for a Client's pension death benefit, you confirm that the nomination has been provided by the Client themselves (and not their attorney or any other representative) and that it accurately reflects their wishes as communicated by them to you. You further confirm that the Client is aware that while the scheme administrator will pay due consideration to those wishes, the scheme administrator will have absolute discretion as to the beneficiaries and the proportion of benefit paid to each.
- viii. You will indemnify us and keep us indemnified in respect of any and all losses and/or claims we may suffer or receive in respect of fraud, negligence or other misuse of your Client's Portfolio, or otherwise howsoever arising in respect of or as a result (directly or indirectly) of you as Adviser or DIM not having the appropriate authority when providing any Instruction on behalf of a Client.

Notwithstanding the foregoing, you and any DIM are prohibited from giving us any Instructions while in the USA.

- (3) Neither you nor your RIs may open a Portfolio or Wrapper on behalf of a Client, or advise a Client to do the same, unless the Client has been provided with the appropriate Transact documentation – including, but not limited to: Wrapper key facts/ features document, a PRIIPs key information document ('KID') – in the case of an onshore or offshore bond -, costs and charges information and other required disclosures under MiFID II, our Guide to Investment Risks, our Standard Privacy Notice and any Wrapper specific privacy notices, including, where appropriate, a personalised illustration/projection, and Transact Client Terms and Conditions, relevant terms and conditions and/or policy documents and related documents (including relevant application forms). Where requested by the Client, you or your RI will promptly supply them with any such documentation, along with any necessary Transact application forms which the Client might require in order to effect any decision to invest through Transact.

We agree to supply the documentation mentioned in this clause [6\(3\)](#) to you or your RI upon request as soon as is practicable.

You understand and agree that:

- i. Whenever you submit a Client's personal data to us, you are deemed to have that Client's express authority to do so.
- ii. Whenever you set up a new Portfolio on behalf of a Client or open a new wrapper within a Client's Portfolio via Transact Online, you warrant and represent that the information you submit to us is correct.
- iii. You will indemnify us and keep us indemnified against all losses suffered or incurred by us and/or any claims brought against us as a result of our acting in accordance with the preceding provisions of this clause [6\(3\)](#).

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- (4) Without prejudice to the generality of clause [6\(2\)\(iii\)](#) above, whenever an Instruction to act on a Client's Portfolio is given to us by you, an RI or any other third party acting or purporting to act on your behalf (where such third party provides to us a correct Password), you represent and warrant:
- i. where acting on a discretionary management agreement that is in effect and agreed by the Client or where you act as agent for the Client, that you and any DIM have the appropriate regulatory permissions; or
  - ii. where acting on any other basis, that a valid Instruction has been received from the Client to so act.
- (5) Please note, you or any other persons (including, but not limited to, an RI) will not have a current authority to give Instructions for the purposes of the agreement constituted by these Transact Adviser Terms and Conditions and the Transact Adviser Application or Transact Adviser Firm Application on behalf of a Client where at any time:
- i. you have ceased to act for the Client;
  - ii. you have ceased to be appropriately authorised under the Act;
  - iii. we cannot ascertain whether any authority remains;
  - iv. in the case of an RI only, you have withdrawn their authority to provide Instructions in respect of a particular Client on your behalf; or
  - v. we have been made aware that the Client has revoked such authority.
- (6) In respect of clause [6\(5\)](#) above:
- i. where any of the circumstances in clause 6(5) above occurs, you and/or the other persons to whom any or all of these conditions may apply will be prohibited immediately from accessing any information about that Client (or any other Client as we may determine at our absolute discretion);
  - ii. should the circumstances in clause 6(5)(i) and/or clause 6(5)(iv) above apply, any data, literature or information previously provided to you and/or the persons mentioned in clause 6(6)(i) above in respect of any Clients, us, the IHP group of companies or any of our connected or related third parties, or anything else to do with the Transact Services or our business, must be returned to us immediately; and
  - iii. notwithstanding clause 6(2)(iii) above, should we be unable to ascertain that you have the appropriate authority to act for a Client after reasonable enquiry, the provisions contained in clause 6(5)(i) and 6(5)(ii) above shall be applied at our discretion.
- (7) Notwithstanding anything to the contrary in this agreement, we may refuse to accept any payments and/or Instructions from you, RIs and/or your Clients for any reason whatsoever at any time.
- (8) Should the authorisation of a RI be withdrawn for any reason or should we have difficulty in ascertaining whether their authority remains current at any time, that RI may no longer act for any Client and they will lose all access to information about the Transact Service (including that provided through Transact Online). However, you will continue to have access to that information and Client data unless we are instructed to the contrary by the relevant Client(s).
- (9) Notwithstanding the other provisions of these Transact Adviser Terms and Conditions, you must ensure that you do not give any Instructions on behalf of a Client in respect of any business for which they have appointed a third party Discretionary Investment Manager.
- (10) You must ensure that you notify us as soon as is practicable (and in any event not later than one Business Day after your notification of the fact) if a Client terminates your appointment (as Adviser and/or as DIM).

## 7. Client Payments to Advisers

### 7.1 Generally

- (1) We will facilitate the payment to you (or your Financial Adviser Network) from a Client's Portfolio of the Payments by deducting these from that Client's Portfolio and paying them to you for and on behalf of the Client in accordance with the authorisation which they have granted to us and in accordance with the Transact Client Terms and Conditions. Please note:
  - i. generally we will not accept Instructions from you in relation to Payments for and on behalf of a Client. We may, at our discretion, accept such Instruction from you where we are satisfied there is evidence that you have notified the Client of the action and the Client has not objected to that within 30 days of that notification;
  - ii. no Payments deducted from a Client's Portfolio will be made to you unless and until our anti-money laundering processes in respect of that Client have been completed;
  - iii. where cash or Investments are moved between Wrappers within the same portfolio we will only pay an adviser fee following receipt of a Client Instruction;
  - iv. if Cash or Investments are moved between Portfolios this will not be a deposit that attracts an Adviser payment on a Portfolio Establishment Fee basis unless we receive a Client Instruction to pay an adviser fee.
- (2) In respect of Adviser Payment Accounts:
  - i. we hold monies attributable to Adviser Payment Accounts with the same banking institutions at which our Clients' monies are held;
  - ii. Adviser Payment Accounts are internally designated by us, and this means that they are not held in individually designated bank accounts at those banking institutions;
  - iii. we apply interest to Adviser Payment Accounts on the basis described in clause 3.11 of the Transact Client Terms and Conditions;
  - iv. Payments of all monies which are in the Adviser Payment Accounts on the date on which the Payment is processed by us can be made from Adviser Payment Accounts on or around the 7th, 17th and/or 27th of each Month; and
  - v. Payments are made to you or, where you are part of a Financial Adviser Network, to whom your Financial Adviser Network directs in respect of the Adviser Payment Accounts designated (a) in the name of each of your RIs on the payment date, and (b) in the name of each RI who was your RI during the period since the last payment date in respect of monies deducted from relevant Client Portfolios prior to the date on which they ceased to be your RI.
- (3) Please note that, as we only make these Payments for and on behalf of Clients, deductions are automatically attributed to the RI to which the Client is linked at the time we process the deduction. It is a matter between you and your Client as to what payments you remain entitled to should your Client change Advisers at any time.
- (4) You cannot request a withdrawal or transfer from a Client's LISA wrapper in order to pay your Adviser firm's fees. Adviser charges must be paid from outside of any LISA wrapper.
- (5) Where a Client has provided the necessary authorisation to do so, and you have instructed us to do so, we may make payments from that Client's Portfolio to a properly appointed Discretionary Investment Manager in relation to that Client's Portfolio. Where such an Instruction is provided by you, you agree to provide us with a copy of the Client authorisation for those payments upon request.

## 7.2 Power to Cease Making Payments

- (1) We may, at our absolute discretion, refuse to pay or cease making the Payments set out in clause 7.1 above to you (whether in your capacity as an Adviser or as a DIM). Circumstances in which we exercise such discretion may include but are not limited to:
  - i. where you cease to be authorised under the Act or your authorisation is suspended, modified or under review;
  - ii. in respect of a Client's Portfolio, where you have ceased to act for that Client;
  - iii. if you (or your Financial Adviser Network) should go into liquidation or receivership, be placed in administration, or become subject to an arrangement or winding up order;
  - iv. where you (or your Financial Adviser Network) have for any reason become subject to an investigation under the provisions of the Act or any other legislation or regulation, whether by the FCA or any other regulatory authority or body;
  - v. should we reasonably believe that your activity or inactivity on one or more Client Portfolios is causing or contributing to consumer harm;
  - vi. where there is an outstanding debt owed by you to us;
  - vii. in respect of a Client's Portfolio, following the death of that Client; or
  - viii. as described in sub-clause [7.3\(3\)](#) below.

## 7.3 Clawback of Payments

- (1) Our Clients are given cancellation rights, which at a minimum comply with our legal and regulatory obligations, in respect of the opening of any Wrapper during which time they may change their mind. As such:
  - i. Should the Client cancel, you will be required to pay back to us, within seven days of the date of cancellation, the amount of any Payments paid to you in respect of the Client Wrapper or Portfolio being so cancelled.
  - ii. Annual Payments will begin to accrue at the beginning of the cancellation period. However, should the Client cancel, you will not be entitled to receive any Annual Payments which have accrued during this period. Where the Client does not cancel and the running of the cancellation period takes in the end of one Month and the beginning of the next Month, you will be entitled to receive any Annual Payments accrued over this period at the end of that second Month.
- (2) Where we accept an Instruction from you as described in clause 7.1(1)(i) above, should we subsequently be informed by a Client that any Payments made by us to you from their Portfolio were not authorised by them you will be required to pay back to us, within seven days of the date of our notification of the matter to you, the amount of any alleged overpayment in order that we can reimburse that amount to the Client's Portfolio.
- (3) Where we accept an Instruction from you rather than from a Client as to the amount of payment to be made to a DIM as described in clause 7.1(5) above and that Client subsequently disputes the amount of those payments, should you be unable to provide us with an appropriate authorisation from that Client you agree to indemnify us against all claims arising from our reliance upon that Instruction.
- (4) Where an investigation by us determines that action or inaction by you has caused or contributed to consumer harm you will be required to pay back to us, within seven days of the date of our notification of the matter to you, the amount of any fees attributable to the action or period of inaction in question in order that we can reimburse that amount to the affected Client(s) Portfolio(s).
- (5) Should you, or your Financial Adviser Network, receive any overpayment of Payments or any other payment in error, you will be obliged to repay to us the overpaid amount within 14 days of the date of our notification to

you of such an occurrence. Should repayment not occur within this period, we reserve the right to withhold any other payment or Payments due to you via or in respect of Transact until such time as this debt is fully repaid.

- (6) Please note that any monies which remain outstanding under this clause 7.3 beyond the expiry of the stated repayment period will attract interest at a rate concurrent with the Bank of England base rate from time to time plus 5%.

## 8. Miscellaneous

### 8.1 Disclaimer

- (1) In your dealings with us, Clients or any associated third parties you must ensure that you exercise due care and diligence and comply with all your relevant legal and regulatory obligations (including, but not limited to the FCA, PRA and IOMFSA regulatory regimes, and all applicable anti-money laundering regimes). Any acts and/or omissions of your employees, servants, agents, nominees, or those of your RI(s) or Secondary Users shall be deemed to be your own. This means that you are responsible for all such acts and/or omissions of your employees, servants, agents, nominees or your RI(s) or Secondary Users.
- (2) We shall exercise due care and diligence in our dealings with you but, subject to our obligations under the FCA, PRA and IOMFSA regulatory regimes, and as otherwise provided in these Transact Adviser Terms and Conditions, we shall not be liable, nor shall we compensate you, for any loss arising as a result of us doing (or not doing) anything in reliance upon any Instruction given (or which we reasonably believe to be given) by you (or your RI(s) or a DIM); nor from any failure by you or your RI(s) or a DIM to comply with the provisions of the Act, any applicable rules and regulations, or this agreement.

### 8.2 Indemnity

- (1) You (whether acting as Adviser or DIM) and your RIs agree to release and indemnify us and our employees, servants, agents and nominees, from and against any and all costs, claims, demands, losses, expenses or liabilities suffered by or arising from our acting (or not acting) in reliance upon any Instruction given (or which we reasonably believe to be given) by you or your RIs. You also agree to indemnify us for the acts or omissions made by us, our employees, servants, agents or nominees, or those of any third party (including a DIM) when acting in reliance upon any instruction given (or which we reasonably believe to be given) by you or your RIs, except where these arise as a result of our gross negligence, wilful default or breach of any statutory obligation.
- (2) While it is accepted by the parties that our normal terms of operation are such that liability arising under the indemnity contained in sub-clause 8.2(1) above is unlikely to occur, nonetheless neither the Adviser nor the RI shall be subject to the terms of that indemnity where monies instructed to be received from a Client by us are not so received by the fault of the Client or its banker(s). You (whether acting as Adviser or DIM) agree to release and indemnify us and our employees, servants, agents and nominees, from and against any and all costs, claims, demands, losses, expenses or liabilities and all other professional costs and expenses suffered by or arising from:
  - i. your (or your RI's) breach of any of these terms and conditions or any action or inaction on your part (or your RI's)
  - ii. the enforcement of this agreement by us
- (3) You (whether acting as Adviser or DIM) undertake to exercise due care and diligence when dealing with Client Personal Data. Should you become aware of any loss of or unauthorised processing of any Client Personal Data you must inform us immediately. You will indemnify us against any and all costs, claims, demands,

losses, expenses or liabilities suffered by or arising from any such loss of or unauthorised processing of Client Personal Data.

- (4) You will not submit a Transact Portfolio Application on behalf of any individual appearing on any sanctions lists compiled by His Majesty's Treasury and/or the Office of Foreign Assets Control and each of their successors. Should you or any Client of yours become subject to any such sanctions you must notify us immediately.

## 8.3 Suitability and Appropriateness

- (1) You represent and undertake that you have made an assessment as to suitability and, where applicable, appropriateness as required by the rules and regulations of the FCA from time to time on each occasion that we receive a purchase Instruction from you in respect of your Client; such representation and undertaking to be deemed to be repeated on each occasion on which any such purchase Instruction is received by us. For the avoidance of doubt, your assessment of suitability should also include, but not be limited to, the ongoing assessment of the suitability of the Transact Service, any DIM and the discretionary management service they provide for the Client.
- (2) You further represent and undertake that:
- i. you will provide your Client with all relevant documentation and pre-contractual disclosures (including any relevant Key Investor Information Document or prospectus) and any specific information regarding any Investment in which the Client will invest;
  - ii. any documentation you republish which is authorised by an Investment Provider (including but not limited to KIIDs and Prospectuses) you will do so without any alterations;
  - iii. you shall accurately reproduce any relevant documentation or information you have received in relation to any Investment in a manner that is clear, fair and not misleading; and
  - iv. when acting as agent of the Client, for the purpose of appointing a DIM, that you have obtained the Client's explicit written consent to act as their agent; that the agreement between you and the Client includes clear provisions granting authority to appoint a DIM and sets out the applicable redress mechanisms in the event of any failure or dispute; and that you have taken reasonable steps to ensure the Client understands the implications of the "agent as client" arrangement, including the respective roles and responsibilities of you, the DIM and us.

By reference to the offering terms and conditions of any specific Investment, you will not market, recommend or distribute that Investment outside of the United Kingdom. You agree that any activities you undertake with regard to the distribution, offer, marketing, sale or recommendation of any Investment are carried out in accordance with laws and regulations applicable to that Investment in the United Kingdom and in a manner that does not cause a breach of any law or regulation applicable in the United Kingdom.

You will indemnify us against any and all losses we may incur, including any associated costs, expenses, damages, or claims made against us by an Investment Provider as a result of your failure to comply with applicable laws or regulations or the offering terms and conditions of any specific Investment.

## 8.4 Powers of Attorney, Discretionary Investment Managers and Pension Death Benefit Nominations

- (1) Where any Client has a Lasting Power of Attorney (LPA) or Enduring Power of Attorney (EPA) in place, you must ensure that the Client has included or inserted the appropriate DIM authorisation provisions in the relevant section of the LPA or that the Client or his/her Attorney (under the EPA or LPA) has obtained the consent of the Court Of Protection in order to allow the use of a new DIM or continued use of any DIM appointed to manage the Client's Portfolio (or any part of it) in the event that the Client loses mental capacity.

- (2) A Client's attorney is unable to provide you or us with a pension death benefit nomination on their behalf. Should we make a decision as to the beneficiary/ies of a deceased Client's pension based upon a pension death benefit nomination provided by you that is subsequently found to have originated from a Client's attorney you will indemnify us against any and all costs, claims, demands, losses, expenses or liabilities suffered by or arising from any payment made by us representing that Client's pension death benefit.

## 8.5 Money Laundering

- (1) You represent and undertake that you will comply with all of your obligations contained in law and regulation regarding the prevention of money laundering, know-your-Client ('KYC') requirements, Client due diligence requirements ('CDD') including their business activities, anti-terrorist financing and proliferation financing (including, but not limited to, compliance with all relevant sanctions lists). You also undertake to provide us with all information (including, but not limited to, original or suitably certified copy documents) we reasonably request so that we are able to comply with our own obligations regarding the prevention of money laundering, KYC, CDD and anti-terrorist financing and proliferation financing law and regulation. Such representation and undertaking shall extend to all transactions effected through or by us as instructed by you, any RI, or Secondary User, and/or your Client.
- (2) Notwithstanding the generality of the foregoing, in respect of any Client which you introduce to us in respect of an application to open an Offshore Bond Wrapper, you are required to:
  - i. provide original or suitably certified copy documents which verify the identity of the Client in accordance with our guidelines reflecting the requirements in the Isle of Man;
  - ii. maintain a record of the evidence of verification of identity and records of all transactions for the period required by Isle of Man law and regulation at the time in question;
  - iii. supply forthwith upon request such suitably certified evidence of verification of identity in any particular case; and
  - iv. inform us specifically of each case where you are not required or have been unable to verify the identity of the Client.
- (3) Further to the requirements detailed in clause 8.5(1) and 8.5(2) above, before you submit a Client's application for an Offshore Bond Wrapper you warrant and represent that you will comply with all anti-money laundering and countering the financing of terrorism laws, regulations, instructions, guidance or rules issued in the Isle of Man, including the Anti-Money Laundering & Terrorist Financing Code 2019 and the Anti-Money Laundering and Countering the Financing of Terrorism (IOMFSA) handbook. Further details and copies of these documents are available on the IOMFSA website.

## 8.6 Terms of Use of Transact Online

- (1) On each occasion any person logs onto Transact Online to send documents to us, they as the User will be deemed to have authority to bind you by the terms set out in these Adviser Terms and Conditions.
- (2) You agree to indemnify us in the event any document or, any part of any document you (or any third party used by you for the purpose) upload via Transact Online or send to us by post is, or is subsequently found (in part or completely) to be incomplete, altered, false, fake, not signed by the purported signatories, incorrect, incorrectly dated and/or not a true copy of the original Transact form, Direct Debit Mandate or certified copy document it purports to be in any way. You agree to indemnify us from all costs, claims, expenses and/or liabilities suffered by or arising from us relying on any such documents.
- (3) Documents sent to us will be relied upon by Transact, HMRC and other third parties. Where applicable we will rely on these documents in order to make payments to external bank accounts you have advised us belong to the Client or any other relevant recipient or beneficiary.

- (4) We may rely on the documents that are sent to us without further recourse to you or your Client. This will include documents sent to us by any third party application you use to transmit data to us.
- (5) We will not be liable for any losses or damages in the event the documents and/or digital information you (or any third party used by you for the purpose) have sent (or have tried to send) is delayed, incomplete, unreadable or corrupted, preventing an Instruction from being actioned at all or in the usual timeframe. You should ensure any urgent instructions have been received in good time by checking with your usual Transact contact directly.
- (6) If your use of Transact Online is identified as posing a risk to the security or stability of our system we reserve the right to suspend your access until such time as we, at our absolute discretion, can be certain that the risk has been mitigated.
- (7) You shall notify us as soon as is practically possible, and in any event no later than 48 hours after discovery, of any Security Incident that threatens the confidentiality, integrity or availability of the Transact Service or information that is stored and processed on our system. Should you fail to do so you will indemnify us against all costs, claims, expenses and/or liabilities suffered by us arising from any consequential damage or intrusion to our system.

## 8.7 Mistakes and limits of compensation

- (1) You warrant and represent that you will take all reasonable steps to ensure that any Instruction you issue to us has not been issued by anyone impersonating your Client. For instance, if it is customary for you to speak to your Client in order to confirm any significant Instruction (for instance changing the nominated bank account for the Portfolio), you should ensure you speak to your Client before you pass the relevant Instruction to us.
- (2) You agree to monitor and check on a timely basis that Instructions issued to Transact have been correctly implemented. This reflects the same obligation that applies to Clients under the Transact Terms and Conditions for Wrap Service at clause 4.3(6).
- (3) Your action or inaction in this regard may result in your Client suffering loss, especially if we are not notified of a mistake or omission within the prescribed time limit.
- (4) Our liability in relation to your Client suffering any loss as a result of a mistake or omission on our part is limited to the extent set out in the Transact Terms and Conditions for Wrap Service at clause 4.3(7).
- (5) For the avoidance of doubt the limitation of liability provisions referred to above apply in relation to all Instructions, including, without limitation, Instructions about executing trades, opening new wrappers, funding wrappers, carrying out transfers and setting or changing Fee payment rates for you or a DIM.
- (6) If any error on our part results in a loss to you, for example if we have not correctly set up or changed any Adviser or DIM Fee rates, we will not be liable to make any payment to you. If an error on our part results in you not being paid the right amount by your Client, your right of recovery is against your Client. We will take reasonable steps to assist you with recovering such debts.
- (7) We will not be responsible for any delay in performing, or to perform, any of our obligations under this agreement if such delay or failure results from events, circumstances or causes beyond our reasonable control, including any breakdown, failure or malfunction of any telecommunications or computer systems (internally or externally), equipment or software used by us in connection with the Transact Service provided under this agreement, cyberattacks or other malicious acts of any third party.

## 8.8 Data Protection

- (1) We are a registered data controller with the Information Commissioner's Office. We will process and keep information obtained by or given to us in respect of you, associated third parties, your employees, servants, agents, nominees or your RI(s), your Secondary Users and your Clients' dealings with us.

- (2) For more details about how we use your information and your rights to access and request copies of it, please contact the Data Protection Officer, Integrated Financial Arrangements Ltd, 4th Floor, 2 Gresham Street, London EC2V 7AD or call us on (020) 7608 5300. Alternatively, you can read our privacy notices on our website at <https://www.transact-online.co.uk/important-information/>

## 8.9 Regulatory Obligations

- (1) To enable us to comply with relevant UK and/or international regulations, you must, immediately:
- i. inform us of any changes to your Client's tax residence, residential address or citizenship status;
  - ii. inform us if your Client dies, loses mental capacity or terminates your or any DIM's appointment; and
  - iii. comply with any reasonable request for information about your Clients made by us and required under such UK and/or international regulation and reporting requirements.
- (2) Where you are both the Client's Adviser and their Discretionary Investment Manager we will:
- i. Provide you with a quarterly statement in a durable medium designed to comply with the requirements of rule 16A.4 of the FCA's Conduct of Business Sourcebook (the "COBS Rules").
  - ii. Inform you where the overall value of any relevant Transact Wrapper and/or Portfolio that you manage depreciates by 10% (and thereafter at multiples of 10%), no later than the end of the business day in which the threshold is exceeded or, in a case where the threshold is exceeded on a non-business day, the close of the next business day.

Provided always that the regulatory obligation for 10% Depreciation reporting rests at all times with you in your capacity as the DIM and we accept no liability for any losses arising out of providing or failing or delaying to provide the services set out in (ii) above in consideration for us not charging you for these services.

## 8.10 Notices

- (1) Any notice from us will be valid if sent to you or an RI at the address as shown for each in our records and will be considered to have been received by you as set out in clause 8.10(3) below. Notices sent from you or an RI to us will only be valid when actually received by us.
- (2) Notices and other formal written communications required by or described in these Transact Adviser Terms and Conditions must be served on us or sent to us at our registered office and addressed to 'The Directors'.
- (3) Any notice or other communication:
- i. delivered by hand shall be deemed to have been received at the time of delivery;
  - ii. sent by post shall be deemed to have been received on the second Business Day (for inland mail) or the fifth Business Day (for overseas mail) after the date of posting; and
  - iii. transmitted email shall be deemed to have been received on the day of transmission, or the next following Business Day where this is not a Business Day and where the transmission is showing as complete.

## 8.11 Complaints and Provision of Information

- (1) You shall notify us immediately if you receive a complaint from a Client which relates to the Transact Service, or any company within the IHP group of companies as soon as reasonably practicable.
- (2) You shall provide us with all assistance and documentation we reasonably request:
- i. so that we may investigate and resolve any Client complaint (to the extent we are responsible under FCA rules for doing so); and/or

- ii. for any other valid reason.

## 8.12 Variation of Agreement

- (1) We reserve the right to vary unilaterally the terms of this agreement at any time, whether to account for legal or regulatory changes or for any commercial or other purpose. We will notify you as soon as possible of all such changes.
- (2) Should these changes affect you materially, we will notify you at least 30 days prior to such changes becoming effective.
- (3) Where these Transact Adviser Terms and Conditions refer to our agreement or consent in writing being required, in order for such written agreement or consent to be valid it must be signed by a director or the company secretary of IFAL or the relevant member of the IFAL group of companies.

## 8.13 Termination

Without affecting any other right or remedy available to us, we may terminate this agreement with immediate effect by giving written notice to you if:

- (1) you commit a material breach of any other term of this agreement and (if such breach is remediable) fail to remedy that breach within a period of 30 days after being notified to do so;
- (2) you repeatedly breach any of the terms of this agreement in such a manner as to reasonably justify the opinion that your conduct is inconsistent with you having the intention or ability to give effect to the terms of this agreement;
- (3) you become subject to any regulatory restrictions or sanctions;
- (4) you suspend, or threaten to suspend, payment of your debts or are unable to pay your debts as they fall due or admit inability to pay your debts or (being a company or limited liability partnership) are deemed unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986 (IA 1986) as if the words "it is proved to the satisfaction of the court" did not appear in sections 123(1)(e) or 123(2) of the IA 1986;
- (5) you commence negotiations with all or any class of your creditors with a view to rescheduling any of your debts, or make a proposal for or enter into any compromise or arrangement with any of your creditors;
- (6) you apply to court for, or obtain, a moratorium under Part A1 of the Insolvency Act 1986;
- (7) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with your winding up (you being a company, limited liability partnership or partnership);
- (8) an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given, or an administrator is appointed, over you (being a company, partnership or limited liability partnership);
- (9) a person becomes entitled to appoint a receiver over all or any of your assets or a receiver is appointed over all or any of your assets;
- (10) a creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of your assets and such attachment or process is not discharged within 14 days;
- (11) any warranty given by you in any part of this agreement is found to be untrue or misleading;
- (12) any event occurs, or proceeding is taken, in any jurisdiction to which you are subject that has an effect equivalent or similar to any of the events mentioned in the preceding subclauses of this clause 8.13;
- (13) without affecting any other right or remedy available to us, we may terminate this agreement on giving not less than 1 months' written notice to you.

## 8.14 Assignment

Neither you nor your associated third parties, employees, servants, agents, nominees, RI(s), or Secondary Users may assign, transfer or second any of the rights and obligations imposed upon each of you without our prior written consent. Should you purport to do so in breach of the foregoing terms of this clause 8.14, we shall be entitled to terminate our agreement with you by written notice.

## 8.15 Creation of Agency

Nothing in these Transact Adviser Terms and Conditions shall act to create any partnership or agency relationship between you and/or any RI and us. However, you acknowledge that an RI who conducts or advises on a Client's business and/or Portfolio with or through us or any company in the IHP group of companies does so subject to the provisions of the Transact Adviser Terms and Conditions and therefore acts solely as your agent at all times.

## 8.16 Unenforceability

If any provision of these Transact Adviser Terms and Conditions or the terms and conditions of a particular Wrapper is held by any court or tribunal or by a relevant regulatory authority to be unenforceable, you and we shall each in good faith consult with each other to agree an alternative provision which is compatible with the law and/or regulation and which achieves a result as similar as possible to the result which would have been achieved by the unenforceable provision.

## 8.17 Remedies and Waivers

No breach by either you or us or any company in the IHP group of companies of any provision of these Transact Adviser Terms and Conditions or the terms and conditions of a particular Wrapper shall be waived or discharged except with the express written consent of the other party.

## 8.18 Governing Law and Jurisdiction

- (1) These Transact Adviser Terms and Conditions shall be governed by and construed in accordance with English law.
- (2) Both parties irrevocably agree to submit to the exclusive jurisdiction of the courts of England and Wales over any claim or matter arising under or in connection with these Transact Adviser Terms and Conditions, and irrevocably waive any objection which we or you (as the case may be) may have now or hereafter to the laying of the venue of any proceedings in any such court and any claim that any such proceedings have been brought in an inconvenient forum, and further irrevocably agree that a judgment in any proceedings brought in the English courts shall be conclusive and binding, and may be enforced in the courts of any other jurisdiction.



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