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TERMS & CONDITIONS



## Introduction

Fyshe Horton Finney Limited is a member of The London Stock Exchange, OFEX and The Association of Private Client Investment Managers and Stockbrokers, and is authorised and regulated by the Financial Services Authority. Our registered office is at Charles House, 148-149 Great Charles Street, Birmingham B3 3HT.

We employ the names PA Dealing and Fyshe Crestar for our trading divisions. We previously employed the trading name Plowman Associates and standard terms are now applicable to this division.

Please read the Terms and Conditions carefully because they spell out the basis of the contract upon which we will supply our services to you. By opening an account with us you agree to be bound by this agreement, and any variation thereof as notified in accordance with section one paragraph 14, which form a legally binding agreement between us. This agreement will take effect from the date we open your account.

## Definitions

Business Days	Days during which the LSE is open for trading
Calendar Quarter	Quarters ending on the last day of March, June, September December
Client Money Account	An account with a UK bank opened in connection with your account
Corporate Event	An event which affects the underlying securities of a company
Due Authorisation	Authority in writing signed by you and if appropriate countersigned by a third party
FSA	The Financial Services Authority or any successor body
Fyshe, Fyshe Horton Finney, us, we, our Fyshe Horton Finney Ltd group	Fyshe Horton Finney Ltd
Inactive Account	Fyshe Horton Finney Ltd and all or any of its subsidiary companies Your account when it has had no transactions other than our charges for one calendar year and has no funds and/or securities held by us
Interest	Interest based on the Bank of Scotland sterling base rate from time to time
ISA	Individual Savings Account as defined by Statute
Limit Orders	An instruction setting the maximum or minimum price at which you are willing to buy or sell respectively
LSE	The London Stock Exchange
Minor	Any person who has not attained the UK legal age of majority
Nominated Bank Account	The bank account notified to us in writing as being the account to which all monies paid to you will be sent.
OEIC	Open Ended Investment Company
Overseas Security Movement	A movement involving a custodial arrangement outside the UK.
PEP	Personal Equity Plan as defined by Statute
PTM	Panel for Takeovers and Mergers
Schedule of Fees and Charges	A list of fees, rates and charges issued by us from time to time
Short Selling	Selling assets you do not own.
UK	England, Scotland, Wales and Northern Ireland. The Channel Isles, Isle of Man are not included in this definition.
Written, Writing	A clear communication on paper from you addressed to us signed by you. This does not include communication by any electronic means.
You, The Client, The Customer, Your,	The person(s) who opens the account, signs the application form, (see paragraph 1.4 for minors) or the person, body corporate or other group on whose behalf the account was opened. A client must notify us if more than one account is opened.
Your Account	Your Account with us comprising all assets, funds and securities held, due or owing including any deposit bank account to which we have access

## Section One

### 1.0 Services

- 1.1 Our service encompasses general investment advisory and dealing facilities to enable you to trade in securities and derivatives (including margined transactions).
- 1.2 Transactions in derivative contracts involve significant risks and are unsuitable for many people. You should not deal in derivative contracts unless you understand the nature of the contracts (and contractual relationships) you are entering into and the extent of your exposure to risk. If operating your account on an execution-only basis you should also be satisfied that the transaction in question is suitable for you in light of your experience, objectives, financial resources and other relevant circumstances. High risk transactions will be subject to the appropriate risk warnings.
- 1.3 We may deal for you in circumstances in which the relevant deal is not regulated by the rules of any investment exchange, i.e. unquoted investments.
- 1.4 Minors cannot use our service. Designated accounts may be held for minors but they must be operated by person(s) over 18.
- 1.5 For the purposes of the FSA rules, we will treat you as a Private Customer. If you are acting as agent for someone else, we will treat you alone as our customer for the purposes of the FSA rules and you will be liable to that person in respect of your transactions.
- 1.6 We may enter into transactions on your behalf in non-readily realisable investments. These are investments in which there is a restricted market and it may therefore be difficult to deal in or obtain reliable information about their value.
- 1.7 We may deal for you in investments that are the subject of stabilisation (a notice explaining certain key aspects of stabilisation is available on request from the FSA).
- 1.8 You should be aware that the price and value of any investments and the income, if any, from them, can fluctuate and may go against your requirements. You may get back less than the amount originally invested. Information on past performance, where given, is not necessarily a guide to future performance. Exchange rate fluctuations may have an adverse effect on the value of investments not denominated in pounds sterling.
- 1.9 There is an extra risk of losing money when purchasing shares in some smaller companies, (including "penny shares"). There may be a significant difference between the bid and offer price of these shares. If you have to sell these shares immediately, you may get back less than you paid for them. The price may change quickly and may go down as well as up.

- 1.10 Where you have indicated that you require our Advisory Dealing Service we may at any time, and at our discretion, provide you with advice, recommendations or information in relation to any investments. You confirm having understood that the Advisory Dealing Service is not an investment management service and that there is no obligation whatsoever on us to provide on-going advice on the suitability of any individual investment or any portfolio of investments in your account or otherwise owned by you. We may charge for this service.
- 1.11 Your managed investment service can either be on a discretionary or advisory basis. We will be the manager of your portfolio. We will use our best endeavours to manage your portfolio in accordance with your investment aims. A statement confirming the initial value and composition of your portfolio will be issued once you have activated this service. We may charge for this service
- 1.12 If you do not inform us in writing of any investments, type of investment or market on which you do not wish us to advise or deal for you when we give you investment advice we may recommend to you, without restriction, any investment as set out above. In doing so we will only recommend to you investments which we have reasonable grounds to believe are suitable for you.
- 1.13 Where you have a discretionary managed account we shall have full authority, at our absolute discretion, over your account, subject to your investment aims and any restrictions you notify to us in writing. This means that unless you instruct us otherwise we shall have full discretion on the value of any one investment and the proportion of the portfolio of which any one investment or a particular kind of investment may constitute.
- 1.14 All the questions on the application form should be answered so that we can match our advice to your investment aims and personal risk profile. If you do not complete all sections we may be unable to give advice appropriate to your circumstances. We may consider advising you on each risk category; namely Low, Medium, or High risk (subject to completion of the appropriate Risk Warning Notice).
- 1.15 We may not deal in United States of America (or other jurisdiction) securities on your account until we have received signed documentation as required by the appropriate authorities.
- 1.16 In the event that we provide other services in the future, we may require you to enter into a separate agreement in respect of them prior to these services being made available to you.
- 1.17 Complaints in respect of any of our products or services should be addressed in the first instance to the Compliance Officer, Fyshe Horton Finney Ltd, at our address. If a complaint is not resolved to your satisfaction you may contact the Financial Ombudsman Service, an independent dispute resolution scheme at South Quay Plaza, 183 Marsh Wall, London E14 9SR (telephone 020 7964 1000). Details of our internal complaints handling procedures can be provided on request.
- 1.18 Our services are covered by the Financial Services Compensation Scheme established under the Financial Services and Markets Act 2000 and any amendments thereto and operated by Financial Services Compensation Scheme Limited. Payments under the scheme are currently limited to a maximum of £48,000, made up of 100% of the first £30,000 and 90% of the next £20,000.
- 1.19 We will act as an independent intermediary when advising you on packaged products such as unit trusts and OEIC's.
- 1.20 In the normal course we shall pay all sums in pounds sterling. Those designated in other currency will be paid using an appropriate exchange rate. There may be a charge for currency conversion as per the Schedule of Fees and Charges.
- 1.21 Fyshe Crestar operates without charging or receiving Interest and any reference to Interest will not apply. Fyshe Crestar has a separate Schedule of Fees and Charges.
- 1.22 Dependant on the service required your account will be allocated to Fyshe Horton Finney, PA Dealing or Fyshe Crestar and the Schedule of Fees and Charges for that division will apply.

### 2.0 Service Charges

- 2.1 The charges for the services shall be those set out in the Schedule of Fees and Charges or as outlined in this agreement. VAT, stamp duty reserve tax, other taxes, levies or other transaction costs will be added at the rate(s) prevailing at the time of the transaction where applicable. Any such amounts due may be deducted from any funds held in your account(s) with us.
- 2.2 We may impose certain additional charges as per the Schedule of Fees and Charges as outlined in this agreement which you shall be liable for in the event that you do not comply with your obligations under this agreement. These can be levied without further notice to you.

### 3.0 Your Responsibilities

- 3.1 You must complete and sign the application form(s) and provide any other documents we have asked for, including any signatures, to us within 20 Business Days. If we do not receive duly completed documentation, we may close your account and return any cash and/or assets to you in accordance with these terms and conditions or operate your account with restrictions.
- 3.2 You must only operate your account if all the conditions are correct not only when you open your account but when you conduct further transactions and when/if you enter into further agreements with us.
- 3.3 You must have all necessary power, authority and approvals to enter into and perform your obligations under this agreement.
- 3.4 This agreement and each and every transaction hereunder is your valid and legally binding obligation, enforceable against you in accordance with the Terms and Conditions of this agreement.
- 3.5 Any person designated by you must at all times have Due Authorisation to act in all respects in relation to this agreement and each transaction hereunder.
- 3.6 Your execution, delivery and performance of this agreement and each and every transaction hereunder must not violate, contravene, conflict with, or constitute a default under any law, regulation, rule, decree, order, judgment or charge, contract, trust deed or other instrument binding upon you or any of your assets in the UK or any other jurisdiction.
- 3.7 In accepting this agreement, we have not made, and you are not relying upon, any statements, representations, promises or undertakings whatsoever that are not detailed herein.
- 3.8 You must ensure that cleared funds are available on or before the date they are required. Should cleared funds not be available we may charge fees and Interest as per the Schedule of Fees and Charges.
- 3.9 You must ensure that certificates and other documents are available on or before the date they are required. Should these not be available we may charge fees and Interest as per the Schedule of Fees and Charges.
- 3.10 You will provide us with the details of your nominated bank account and any changes thereto in Writing and acknowledge that it may be 5 Business Days from receipt before any change is implemented.
- 3.11 You must provide us promptly on request with any document(s) as we may reasonably require from time to time.
- 3.12 You must not use any of our services for any purpose which is unlawful, abusive, libellous, obscene or threatening.

- 3.13 You accept responsibility for the monitoring of your account. You agree to notify us immediately if you become aware of any of the following:
- Loss or theft from your account.
  - Unauthorised use of your account number.
  - Failure by you to receive a message from us indicating that an instruction or order was received and/or executed.
  - Failure by you to receive an accurate contract note in respect of a transaction.
  - Receipt by you of a contract note or confirmation of an instruction, order or transaction which you did not place.
  - Any inaccurate information in your account balances, assets held, transaction history, or personal data.
- 3.14 You acknowledge and agree that when you are acting as principal (joint and trustee accounts are covered in paragraph 4) during the operation of your account you may be issued with account numbers and passwords for remote access to some of your accounts.
- You are the sole and exclusive owner of any numbers and passwords allocated to you;
  - You are responsible for the confidentiality and use of your numbers and passwords; We may rely on all orders and secure message instructions using your account numbers and passwords and you will be bound by any agreement entered into or expense incurred on your behalf in reliance on such orders and secure message instructions.
- 3.15 You must ensure that all assets deposited with us are free of any lien or undertaking.
- 3.16 If your circumstances or views change, and you wish to amend either your risk profile or investment aims you must ensure that we are notified of such change without delay in writing. We may not act upon such information until receipt.
- 3.17 You must supply any change of details to us as soon as possible. Any correspondence, including notice to be given to you, will be sent to the address shown in the application form, or the last address known.
- 3.18 You accept that transactions entered into through our services may affect your tax situation. It is your responsibility to ensure that correct returns are made to the tax authorities. You should consult your own tax adviser in order to understand any tax consequences which may arise.
- 4.0 Joint Accounts and Trustees**
- 4.1 Where the account is in the name of more than one person: -
- Any communication under this agreement may be given by or to any one of you and that person may give us final discharge in respect of our obligations.
  - Your liabilities under this agreement are joint and several and on the death (if an individual) or dissolution (if applicable) of any one of you, the account will continue in all respects in the name(s) of the survivors.
- 4.2 Where the account is/are in the name of one or more Trustees, you: -
- Must notify us in writing of any changes in Trustees of the relevant trust.
  - Must confirm in writing that each of you has the necessary powers to enter into and perform this agreement.
  - Must confirm in writing that you are aware of the true identity of the settlors and beneficiaries of the trust and that there are no anonymous settlors or beneficiaries.
- 5.0 Dealing**
- 5.1 If we receive an order from you in response to a quotation, within the time given for acceptance of the quotation, then your order will be carried out in accordance with that quotation.
- 5.2 We will provide best execution on transactions in accordance with, and as defined by the rules of the FSA and/or the relevant exchange(s) at the time of the transaction. Where the market is overseas, prices may reflect local charges and we may rely on our agent to obtain best execution.
- 5.3 If you wish to trade in warrants, contracts for difference, futures, options or other derivative instruments we may make available from time-to-time, you will first be required to sign and return the appropriate risk warning notice.
- 5.4 Each order you place for our services constitutes an offer to purchase the services subject to this agreement. We may, in our absolute discretion, and without explanation, decline to accept any particular order or instruction from you. We may accept your order subject to certain conditions which we will notify to you.
- 5.5 Limit Orders may be accepted by us only subject to specific terms, conditions and charges and at your sole risk.
- 5.6 When we accept your order, we will use all reasonable endeavours to carry it out. However, we will not be liable to you for any loss or expense you incur if we are unable to carry out an order for whatever reason (other than our negligence) or where there is a delay or change in market conditions before the transaction is completed.
- 5.7 Once accepted by us, your order is irrevocable, unless, prior to execution of a particular order, you receive confirmation from us of any amendment or cancellation of your order.
- 5.8 There is a maximum size for online trading. Trades above this limit will be dealt with by contacting us by telephone.
- 5.9 When placing an order for our services by telephone it is your responsibility to check that the terms of your order are correct. The order accepted by us will be those repeated back to you subject to any amendments you may notify to us at the time.
- 5.10 You acknowledge and accept that: -
- The market price of any order placed by you in response to, and within the timescales given for acceptance of, a fixed price quotation may have moved during the time between our sending/giving the fixed price quotation to you and the execution of your order. Such movement may be in your favour or against you.
  - There may be a delay in the execution of an order because all orders are executed strictly by reference to the time of receipt. In particular, an order received when the relevant exchange is closed will not be executed until it re-opens. Where a large number of orders have been received while the market is closed, they will be executed as soon as reasonably practicable after the exchange next opens.
  - We may aggregate your orders with those of other clients (including those of connected parties). On occasion, such aggregation may result in you obtaining a less favourable price.
- 5.11 Short selling is permitted but only by our prior agreement. Investments and any other funds or securities held for you under our control may be used to settle your sale transactions. Otherwise, in respect of all sale transactions you:
- Warrant to us that at the time of placing an order to sell, you own the relevant investments.
  - Will immediately arrange for delivery to us of the certificates and correctly completed transfer forms for such investments at the latest by the contracted settlement date. If such documents are not received by us by this date we may close out your position without further notice to you.
- 5.12 In relation to transactions in derivatives you may have to pay us from time to time on demand such sums in cash by way of premium, deposit or margin in relation to a margined transaction as we in our discretion notify to you. If we are unable to contact you or if you fail to make such payment, we may close out your positions without further notice to you.
- 5.13 Demand for our services may fluctuate and whilst we will use all reasonable endeavours to meet increased demand for the services, we cannot accept responsibility for any actual or potential economic loss that may arise if you are unable to contact us to place an order by any of our current dealing methods except where such inability is caused by our negligence.
- 6.0 Client Money**
- 6.1 We will present cheques on receipt. We will only accept funds in the name of the account holder or from a recognised financial institution for your benefit. In the case of a banker's draft the issuer must identify the account holder on the face of the draft. Notes and coin will not be accepted.
- 6.2 Client money will be held in accordance with the client money regulations of the FSA, which require us to hold it in a client bank account, segregating your funds from ours at a bank approved by the FSA. Funds may be held in a pooled client deposit account at a UK bank. This means that in the event of default by the bank if there is any unreconciled shortfall in the money held in the account, you may share proportionately in that shortfall.
- 6.3 We may pay interest on money which is not required to settle a purchase. Interest will be paid in respect of each Calendar Quarter. However amounts of less than £5 may not be credited and will not accrue to the next period. Interest may not be paid in respect of monies not held in pounds sterling.
- 6.4 We will value open margin trades on a daily basis and calculate the amount of interest, on a basis notified to you in writing, that would apply to the sum of money necessary to take out a position in the underlying security with the same value. A different rate of interest will normally apply to long and short positions. While your margin trade remains open the amount of interest will be calculated and will accrue on a daily basis.
- 6.5 You accept that where you do not open a Client Money Account we may accrue monies due to you until the amount exceeds £50 in total and we shall pay you the accrued amount at the beginning of each calendar month or the month after it exceeds £50. Interest will not accrue on such retained sums. Specially requested payments less than £50 in value may attract a handling fee as per the Schedule of Fees and Charges.
- 6.6 If you wish to withdraw monies from your account you can give us instructions by telephone or in writing. We will pay this money into your nominated bank account or issue a cheque normally within 5 Business Days.
- 6.7 Accounts that have not transacted in a share purchase or sale in any continuous 12 month period may be subject to an account inactivity fee as per the Schedule of Fees and Charges.
- 6.8 You agree that we may cease to treat your money as client money and, accordingly, release it from our client bank accounts if there has been no movement on your balance for a period of at least six years (notwithstanding any payments or receipts of charges, interest or similar items) provided we have taken reasonable steps to trace you and to return the balance.
- 6.9 We will only make payments on request to other than your Nominated Bank Account at our absolute discretion and subject to payment as per the Schedule of Fees and Charges. Such payment cannot be stopped.
- 7.0 Custody**
- 7.1 Investments either purchased by us on your behalf or transferred to us will be held by our Nominee or another eligible custodian on trust for you subject to the remaining terms and conditions of this paragraph. Providing that there are no outstanding debts on Your Account, you will at all times remain the beneficial owner of any of your investments which are held by our Nominee. A charge may be made for each investment held to your account, on the last day of each Calendar Quarter as per the Schedule of Fees and Charges.
- 7.2 In respect of any of your investments held by our Nominee or otherwise purchased by us on your behalf, upon request, we will arrange the issue of a certificate in your name where this facility is available. The charges set out in our Schedule of Fees and Charges will apply to the production of certificates for you. The safekeeping of all investments held by you in certificated form shall be at your risk. A charge may be made for each investment held to your account, in certificated form, on the last day of each Calendar Quarter as per the Schedule of Fees and Charges, in respect of any of your investments held by our Nominee or otherwise purchased by us on your behalf.
- 7.3 Any investments held on your behalf (including those in a PEP or ISA Plan) may be pooled with those investments of other clients. This means that your entitlement may not be individually identifiable on the relevant company register, by separate certificates or electronic records (other than ours). In the event of an unreconciled shortfall caused by the default of a custodian, you may share proportionately in that shortfall.
- 7.4 You agree that due to the nature of applicable laws or market practices in certain overseas jurisdictions we may decide that your Nominee investments should be registered or recorded in our name or in the name of the person who is a custodian for the purposes of FSA rules, or where it is not feasible for us to do otherwise, accordingly:
- The nominee investments may be registered or recorded in the name of the firm or custodian.
  - The nominee investments may not be segregated and separately identifiable from the designated investments of the person in whose name they are registered.
  - As a consequence, in the event of a failure, the nominee investment may not be protected from claims made on behalf of our general creditors.
- 7.5 Your non-UK securities may be held overseas. There may be different settlement, legal and regulatory requirements and different practices for the separate identification of investments from those applying in the UK. As dealing in and information on overseas investments may not be available through all communication channels, you should contact us for further information on product availability.
- 7.6 Please note that we may agree to accept instructions in relation to nominee investments from you in the manner specified in paragraph 8 except as otherwise specifically agreed.
- 7.7 We will be responsible for claiming and receiving dividends, interest payments and other income payments accruing to your investments. However, in the event of a scrip dividend being offered, we will elect to take the cash alternative unless you request otherwise and we, in our absolute discretion, agree to take shares. We shall be under no obligation to elect for the cash alternative until the relevant investments are registered in the name of our Nominee.
- 7.8 Any Dividends or interest received on account will be accrued on the Client's Earnings Account and we shall pay you the accrued amount at the beginning of each calendar month. Interest will not accrue on such retained sums. Specially requested payments less than £50 in value may attract a handling of up to £15, as per Schedule of Fees and Charges.
- 7.9 You will be supplied by post with a consolidated tax certificate in respect of dividends and interest received on your behalf as soon as reasonably possible after the end of the tax year.

- 7.10 We will not notify you of, nor arrange the exercise of any voting rights attaching to your investments, whether exercisable at a general meeting of share/unit holders or otherwise. We will not notify you of any general meetings of share/unit holders applicable to your investments. You acknowledge that any facility to receive share/unit holder communications and benefits may be made available by us to you only after special request and with the consent of the relevant company or registrar.
- 7.11 Subject to Paragraph 7.18, we will use reasonable endeavours to notify you of any rights issue, calls, conversion, subscription or redemption rights and take-over or other offers arising from Corporate Events attaching to your investments unless we consider it impractical, at our absolute discretion, so to do.
- 7.12 If you notify us, within such period as we specify at the time, that you wish to exercise any rights arising out of Corporate Events and provided there are sufficient cleared funds in your account, we will use reasonable endeavours to give effect to your instructions. If we receive no notification, or are unable to contact you in time, we will take such action, or refrain from taking any action, as we, in our absolute discretion, determine (including, without limitation, arranging the disposal of any subscription rights on your behalf in such manner as we think fit).
- 7.13 We will not be obliged to arrange for you to attend share and/or unit holders' meetings and vote in person or to direct how our Nominee should vote on your behalf unless you give us your written instructions. On receipt we shall use reasonable endeavours, to make appropriate arrangements subject to such undertakings and in the manner and within the timescales we may impose.
- 7.14 Where a Corporate Event results in fractional entitlement to part of a share then we will sell such fractional shares and credit your account with a cash value provided such cash value is £5 or more.
- 7.15 Where a Corporate Event (such as partial redemption) affects some but not all Nominee investments held in a pooled account, we shall allocate the investments so affected to relevant clients in such a fair and equitable manner as we consider appropriate. If we are notified of a class action or group litigation that is being proposed or taken concerning investments that our Nominee is holding, or has held, on your behalf we will be under no obligation to inform you or otherwise act on that notification.
- 7.16 Where your investments are held on a pooled basis additional entitlement options in respect of your holdings (for example, following certain corporate actions) that would otherwise have been available had such investment been registered in your own name may not be accepted by the registrar. We will make our best endeavours to process your election; however, we accept no responsibility in whole or in part in the event of this not being accepted by the registrar.
- 7.17 We may aggregate your order with those of other clients to participate in certain types of offers. We will, at all times, use reasonable endeavours to fulfil your order however you may not receive the allocation of shares you applied for. If that should happen we will return any uninvested sums of money to your account.
- 7.18 We accept liability for our Nominee and for any other member of the Fysher Horton Finney Ltd group acting as a custodian or sub-custodian but not for any other custodians or sub-custodians.
- 7.19 We shall be under no liability to notify you of or act upon any Corporate Event until the relevant investments are registered in the name of our Nominee.
- 7.20 In the case of bargains transacted overseas, any stock or money held by us to our order on your behalf may be passed to an intermediate broker, settlement agent or counterparty located outside the UK. In these circumstances, the legal and regulatory regime applying to that person may be different from that of the UK. This means that in the event of the insolvency of that person, your assets may be treated differently from the manner in which they would be treated if they had been passed to a party within the UK.
- 7.21 Where any documents or cleared funds are not held by us as part of your account, we will not be obliged to settle any transaction or any account on your behalf until we or our settlement agents or custodian, have received all necessary documents or cleared funds. Our obligations to deliver to you, or to your account, or to account to you for the proceeds of the disposal of investments are conditional upon the prior receipt by us of appropriate documentation and cleared funds.
- 7.22 Where we have acted as your agent, it is the other party to the transaction and not us who is responsible for settling the trade with you and delivery or payment (as the case may be) will be at your own risk. Our obligation is only to pass on to you, or to credit to your account, such deliverable documents or sale proceeds (as the case may be) as we actually receive.
- 7.23 Transactions in derivatives can be subject to possible adjustments as the result of events such as subdivision, consolidation, reclassification or distribution to existing holders of the underlying shares. In such circumstances a determination will be made of any adjustment or amendment to the size, value and or number of the affected transaction. This determination shall be conclusive and binding upon you. We shall inform you of any adjustment or amendment under this paragraph as soon as reasonably practicable.
- 7.24 In the normal course we shall pay all sums in pounds sterling. Those designated in other currency will be paid using an appropriate exchange rate. There may be a charge for currency conversion as per the Schedule of Fees and Charges.

## **8.0 Communications**

- 8.1 We may rely on any communication in any form which purports to have been made, and which we reasonably believe to have been made, by you or on your behalf. You will be bound by any agreement entered into or expense incurred on your behalf upon reliance on such a communication.
- 8.2 Except as otherwise expressly provided in this agreement, any communication to you may be given by post, secure electronic message, or email to the address last notified by you. (see paragraph 3.17).
- 8.3 Communications sent to us will be deemed received only if actually received by us and at the time and date of actual receipt.
- 8.4 Communications sent by us to you:-
- By post will be deemed delivered and received by you seven days after posting.
  - By fax will be deemed delivered and received immediately upon sending.
  - By email will be deemed delivered and received immediately upon sending.
  - By courier service will be deemed delivered and received the following Business Day.
- 8.5 In the case of communications sent by us to you by secure electronic message:-
- Such communications will be deemed delivered to you upon us sending such communications to the secure mailbox within our website.
  - We will not be obliged to seek any acknowledgement of receipt from you in respect of communications so sent.
  - We will not be liable to you for any delay or failure of delivery (for whatever reason) of any communication so sent.

- 8.6 We may agree to send certain communications to you via SMS or similar media. You should note that this does not form a standard part of our service. We will not be liable for any delay or failure of delivery of communication, or inaccuracy of information, sent via such media.
- 8.7 You agree and expressly confirm that you are willing for us to telephone you to discuss investment matters. You therefore envisage that we might make such a call in circumstances which we believe are reasonable.
- 8.8 We may record telephone conversations on our telephone lines with or without use of an automatic tone-warning device. We may use such recordings and any transcripts thereof for any purpose which we deem desirable including use as evidence by us in any dispute between us and any other party.

## **9.0 Contract Notes and Statements**

- 9.1 Where we execute the sale or purchase of an investment for you, we will, where required by FSA Rules or as otherwise agreed with you, send to you (or to any agent nominated by you in writing) a contract note containing the essential details of the transaction except where it would duplicate a confirmation containing the essential details of the transaction to be promptly provided to you by someone else.
- 9.2 We will send you at regular intervals and at least twice in each calendar year a statement listing the cash and custody investments held in your account with us. We will value the investments in your account using price information from independent service providers of our choice or quotations from independent market makers or dealers in the investment concerned. However, if we determine that valuation data is not available from such sources or it is inappropriate to use such sources, we may value an investment at such value as we consider fairly reflects the current value of such investment.
- 9.3 Statements for accounts involving margin trades and contingent liability transactions will be sent to you at the beginning of each calendar month.

## **10.0 Website Information**

- 10.1 Information contained on our web sites is obtained from sources believed to be reliable, but neither we nor any of our agents, licensors or other service providers make any representation as to the completeness, accuracy or timeliness of the information or of any opinions expressed therein nor do we or they accept any liability for any losses, costs, liabilities or expenses (including, without limitation, loss of profit) which may arise directly or indirectly from use of or reliance on the information.
- 10.2 The information contained on our web sites is our property or the property of our licensors and/or service providers and is protected by copyright and other intellectual property laws. It may be displayed, re-formatted and printed for your personal, non-commercial use only. You agree not to reproduce, re-transmit or distribute the information to anyone without our prior written consent (or the prior written consent of the relevant licensor). In particular, and without limitation, you may not post the information to newsgroups, mail lists or electronic bulletin boards or similar media without our prior written consent (or the prior written consent of the relevant licensor and/or service provider).

## **11.0 Data Protection**

- 11.1 We are registered under the Data Protection Acts and for the purposes of the Acts We may process personal data relating to you for the purpose of administering your account and in providing our services. We will not disclose this information outside the Fysher Horton Finney Ltd group, except to the extent that we are required or permitted to do so by law, for fraud prevention purposes, or to licensed credit reference agencies.
- 11.2 The personal information may also be processed by us for the purposes of evaluating your potential financial needs, for the conducting of market research and for the marketing to you of financial services and products subject to paragraph 11.6 below. Should the purposes for which your personal information be processed change then we will notify you. Such processing may continue after termination of this agreement.
- 11.3 We may transfer or disclose personal information within the Fysher Horton Finney Ltd group, to our professional advisers and to such other parties as we consider may assist in the administration of the service or the provision of other related services. We may also disclose personal information if we are required to do so by law or are requested to do so by the Inland Revenue, FSA, the LSE or any other regulatory body.
- 11.4 We may check your details at credit reference and fraud prevention agencies when considering your application for an account and whenever we feel it necessary to manage the operation of your account. Such agencies may keep a record of our enquiry. If you give us false or inaccurate information and we suspect fraud or any other illegal activity, we may record this.
- 11.5 By entering into any agreement to which these Terms and Conditions apply, you freely consent to the processing and disclosure of the personal information for these purposes. You also agree that the purposes may be amended to include other uses or disclosures of personal information following notification to you.
- 11.6 If you do not wish to receive marketing materials from us then you can indicate this by ticking the appropriate box on the Form or informing us at any time in writing.
- 11.7 You have a right, upon application in writing and payment of a fee, to receive a copy of the information we hold about you.

## **12.0 Material Interests**

- 12.1 Your attention is drawn to the fact that when we enter into a transaction for you, we, or some other party connected with us may have an interest, relationship or arrangement that is material to the investment, transaction or service concerned. However, our employees or associates are required to treat you fairly in relation to such conflicts of interest or material interest. We are entitled to act notwithstanding any such interest. If you object to our acting for you where we have a material interest or conflict of interest then you should notify our Compliance Officer in writing. Unless so notified, we will assume that you do not object to us acting in this way. A material interest or conflict of interest could arise when entering into a transaction for you, where we (including a connected party) could be:-
- Dealing as principal for our own account by selling the investment concerned to you or buying it from you or taking a mark-up, mark-down or credit for our account.
  - Acting as agent for an associate, or another client or investor and also acting as agent for you in the same transaction, and receiving and retaining commission or other charges from both parties. The bid and offer price may be different.
  - Buying investments where we or a connected party are, involved in a new issue, offer for sale, rights issue, take-over or similar transaction concerning the investment.
  - Executing a transaction for or with you in circumstances where we have knowledge of other actual or potential transactions in the relevant investment.
  - Holding a position in, or trading, dealing or market-making in, investments purchased or sold by you.

- Sponsoring, underwriting, sub-underwriting, placing, purchasing, arranging, acting as a stabilising manager for, or otherwise participating in, the issue of investments purchased or sold by you.
  - Involved in a Corporate Event.
- 12.2 The relationship between you and us is described in this agreement. Neither that relationship, nor the services, nor any other matter, will give rise to any fiduciary, equitable or contractual duties on our part, or that of any connected party, which would prevent or hinder us or them from doing business with or for you, other clients, or other persons or for our or their own account.
- 12.3 We may retain any payment, remuneration, profit or benefit which arises in relation to, or as a result of, any such matter as referred to above.

### 13.0 Liability and Indemnity

- 13.1 Neither we nor any of our agents, licensors or connected parties or our or their directors, officers or employees (each a "Relevant Person") will be liable for any losses, costs, liabilities or expenses (including, without limitation, loss of profit) incurred by you in connection with this agreement (including, without limitation, any service performed, your access to our services in connection with any transactions and giving of instructions to third parties in connection with any transaction), or in connection with any agreement which we enter into, or on your behalf. This exclusion does not apply to any Relevant Person insofar as such losses, costs, liabilities and expenses result directly from the proven negligence, wilful default or fraud of such Relevant Person. In particular, and without prejudice to the generality of the above:-
- We will take reasonable security precautions to safeguard data and communications. However, we disclaim any liability for interception of any such data or communications. The Internet in particular is subject to interruption, transmission blackout, and delayed transmission due to Internet traffic or incorrect data transmission due to the public nature of the Internet. Neither we nor any of our connected parties or service providers nor any third party working for us to provide our service shall be responsible for any damages caused by line failure, unauthorised access, theft, systems failure, service interruption, computer virus and other occurrences beyond our control.
  - You should be aware that the Internet is not a completely reliable transmission medium. Neither we nor any of our connected parties accept any liability for any losses, costs, liabilities or expenses (including without limitation, loss of profit) which may arise directly or indirectly from your inability to access or use our service for any reason or for any delay in or failure of the transmission or the receipt of any instructions or notifications sent through our service.
  - The use and storage of any information, including your account number and other information relating to your account is your sole risk and responsibility.
  - You are responsible for providing and maintaining the communications equipment (including personal computers and modems) required for accessing and using our service and for all communications services fees and charges incurred by you in accessing our service.
- 13.2 Our rights and remedies, powers and privileges contained herein are cumulative and in addition to any rights or remedies provided by law. No failure to exercise, or delay in exercising any such rights or remedies shall operate as a waiver nor shall any single or partial exercise preclude any other or further exercise.
- 13.3 Each provision of this agreement is severable and if any provision is or becomes invalid or contravenes any applicable regulations, the remaining provisions will not be affected.
- 13.4 Where this agreement creates rights in favour of a third party then we are entering into this agreement as trustee for the third party as well as on our own behalf.
- 13.5 To the extent that any paragraph, sub-paragraph, sentence or clause of this agreement is void, voidable or unenforceable, that fact will not affect the operation of any other paragraph, sub-paragraph, sentence or clause of this agreement.
- 13.6 You agree to indemnify us, our agents, licensors, connected parties and service providers, and our and their directors, officers and employees (each an "Indemnified Person") against all losses, costs, liabilities or expenses (including, without limitation, loss of profit) incurred by us or them in connection with this agreement (including without limitation any service performed, your access to our service and the giving of instructions to third parties in connection with any transaction), or in connection with any agreement which we may enter into on your behalf. This indemnity does not apply to any Indemnified Person insofar as such losses, costs, liabilities and expenses result directly from the proven negligence, wilful default or fraud of such Indemnified Person.
- 13.7 Nothing in this agreement will exclude or restrict to an extent prohibited by the rules of the FSA any duty or liability we may have to you under their or other regulatory system.

### 14.0 Amendments to this agreement

- 14.1 We may amend or supplement this agreement by providing you with Written notice of the amendments and a revised set of Terms and Conditions. Where amendments to the Terms and Conditions is due to a change of law or regulation only a revised set of Terms and Conditions may not be provided. We will give you at least 10 Business Days notice of any change before the amended Terms and Conditions take effect unless it is impracticable in the circumstances to do so.
- 14.2 Amendments to reflect a change of law or regulation may, if necessary, take effect immediately. Other amendments will take effect on the date specified.
- 14.3 We may from time to time issue a revised Schedule of Fees and Charges. We will give you at least 10 Business Days notice of any change before the amended Schedule of Fees and Charges take effect unless it is impracticable in the circumstances to do so

### 15.0 Force Majeure

- 15.1 We will not be liable to you for the non-performance of any of our obligations hereunder by reason of any cause beyond our reasonable control, including without limitation any breakdown or failure of transmission or any computer failure or communication, postal or other strikes or similar industrial action and/or terrorism, governmental action, failure of any relevant exchange, clearing house and/or broker for any reason to perform its obligations.

### 16.0 Termination of this agreement

- 16.1 We or you may terminate this agreement by each giving notice to the other in writing, which will take effect with accordance to paragraphs 8.3 and 8.4, or after such period as may be specified in the notice.
- 16.2 Termination will not affect any outstanding transaction or any rights or obligations which may already have arisen between you and us. Transactions in progress at the date of termination will be completed by us as soon as practicable subject to this agreement.
- 16.3 If termination occurs, we will, as soon as reasonably practicable and subject to this agreement, arrange the delivery to you at the last address known or your order of any money or investments in Your Account, subject to appropriate charges as per the Schedule of Fees and

Charges. A final statement will be issued to you where appropriate. Should instructions not be received within 10 Business Days for derivative instruments we may close out the position and remit the proceeds or call on you for payment.

- 16.4 On expiry of the notice in 16.1 all your money and investments will be held at your own risk.

### 17.0 Death

- 17.1 In the event of the death of the sole account holder the account holder's legal personal representative must provide us with formal notice of the event in the form of an original Death Certificate of the account holder. We will then hold the existing investments in Your Account but will not carry out any transactions from the date of your death. Tax relief will not apply to your PEP/ISA from the date of death.

Once we have received the grant of representation, probate or equivalent for your estate, we will then carry out the instructions from your legal personal representative. If we have not received any instructions after 6 months we may re-register your holdings into the name(s) of your legal personal representative(s). In the absence of other instructions we will send the certificates to the registered correspondence address for the estate. The securities cannot be sold until the re-registration process has been completed.

If your estate is too small to warrant a grant of representation an indemnity form must be completed by the beneficiary(ies).

We are not responsible for any losses that result from us not being able to operate your account following your death. We will not provide investment advice to the executor of your will or administrator of your estate unless subject to a new agreement in the name of the personal representative(s).

If you have a joint account and one of you dies paragraph 4.1 of this agreement will apply. Any applicable charges as per the Schedule of Fees and Charges will continue to be charged until the account is closed.

On death any instructions given by You will cease and Your Account will be held in trust until instructions are received from your personal representative.

- 17.2 Death – Option trading

Where a death occurs close to the expiry date of an option, we may, if deemed appropriate by us at our absolute discretion, close out the position without further reference to the personal representatives. No responsibility will be taken for any losses, including without limitation any consequential loss, which may be incurred by our actions in this circumstance.

### 18.0 Legal Charges, Lien and Set Off

- 18.1 All of your investments and money in your account(s), held by us or our Nominees are subject to a lien or general charge in our favour to cover all and any outstanding amounts due from you to us.
- 18.2 If you default in paying any amount due, Interest will be payable by you on demand as per the Schedule of Fees and Charges together with all associated administrative and recovery costs including all legal costs.
- 18.3 If we have to pay or repay any money from any account you may hold with us or deliver or redeliver any investment it will be conditional upon there being no outstanding liabilities (whether actual or contingent) due from you.
- 18.4 We may, without notice to you combine, consolidate or merge all or any of your accounts, balances and other amounts with, or liabilities to us and may set-off any sum standing to the credit of any such accounts, balances or other amounts in or towards the satisfaction of any sum or liability you owe to us. To effect set-off we may transfer monies and/or assets between any of your accounts.
- You grant to us power of attorney to execute and sign all such transfers, assignments, further assurances or other documents and do all such other acts and things as may reasonably be required to vest or to realise the above security or any of it in us or to our order or to a purchaser or transferee or to protect or preserve our rights and interests in respect of the security or for the exercise by us of all or any of the powers, authorities and discretions conferred on us by this agreement.
- 18.5 Sections 93 (restriction of right of consolidation) and 103 (restriction of right of sale) of the Law of Property Act 1925 will not apply to this agreement.
- 18.6 Cash we hold for you will be used to settle your purchase transactions. Otherwise, you must provide us with sufficient cleared funds at the latest by the contracted settlement date.

### 19.0 Selling or Closing Out and Set Off

- 19.1 At any time that we consider necessary or desirable including without limitation, if you default by not making any payment, delivering any investments or transfer documents or necessary instructions to us at the due time then we may without further notice to you:-
- Treat any outstanding transaction as having been cancelled and terminated.
  - Realise any or all money held or debts due to you from any party including ourselves in relation to this agreement, or any investment, asset or transaction hereunder.
- 19.2 In the event of default, we may sell, pledge, deposit or otherwise deal with all or any of the security, free of interest of yours and as we in our absolute discretion think fit (without being responsible to you for any loss or diminution in price), and/or close out, replace or reverse any such transaction or take, or refrain from taking, such other action at such times and in such manner as we consider necessary or appropriate to cover, reduce or eliminate loss or liability under or in respect of any contract, positions or commitments. A charge may be made for this.
- 19.3 The net proceeds of any such dealings will be applied towards the discharge of your liabilities. You will be entitled to any balance remaining after discharge of all liabilities. In the event of a shortfall, you remain liable for any such shortfall and will pay to us the balance remaining due forthwith.

### 20.0 Assignment

- 20.1 The obligations under this agreement are binding and the rights will be enforceable by you and us and our respective successors, permitted assignees and personal representatives.
- 20.2 We may at any time cause all or any part of our rights, benefits and/or obligations under this agreement to be transferred by delivering to you a Written substitution notice. Upon delivery of such notice to you to the extent that in the substitution notice we seek to cause our rights and obligations here under to be novated:-
- You and we will be released from further obligations to each other hereunder and your and our respective rights against each other will be terminated, and
  - You and such transferee will acquire the same rights and assume the same obligations as you and they would have acquired and assumed had such associated company been an original party to this agreement instead of us.
- 20.3 Your rights under this agreement are personal to you and not capable of assignment. Your obligations under this agreement must not, without our prior Written agreement, be performed by anybody else.

## 21.0 Governing Law

21.1 This agreement is governed by English law. You agree that legal action relating to this agreement may only be dealt with by the Courts of England.

## 22.0 FSA Risk Warnings

22.1 Certain specialised investments (warrants and/or derivative products) carry a greater than normal risk. It is a condition of this agreement that before entering into transactions involving these investments that you have read the risk warnings in **section two**. You warrant that before entering into such transactions the Risk Warnings have been read and understood.

## Section two

### Introduction

These risk warnings are in addition to the other sections in this agreement. Where applicable they form an integral part of this agreement.

### 1.0 FSA Risk Warnings

1.0 This notice is provided to you, as a Private Customer, in compliance with the rules of the FSA. Private Customers are afforded greater protection under these rules than other customers are and you should ensure that we tell you what this will mean to you. This notice cannot disclose all the risk and other significant aspects of warrants and/or derivative products such as futures and options. You should not deal in these products unless you understand their nature and the extent of your exposure to risk. You should also be satisfied that the product is suitable for you in the light of your circumstances and financial position. Certain strategies, such as "spread" position or a "straddle", may be as risky as a simple "long" or "short" position. Although warrants and/or derivative instruments can be utilised for the management of investment risk, some of these products are unsuitable for many investors. Different instruments involve different levels of exposure to risk and in deciding whether to trade in such instruments you should be aware of the following points.

### 2.0 Warrants

2.1 A warrant is a time-limited right to subscribe for shares, debentures, loan stock or government securities and is exercisable against the original issuer of the underlying securities. A relatively small movement in the price of the underlying security results in a disproportionately large movement, unfavourable or favourable, in the price of the warrant. The prices of warrants can therefore be volatile.

2.2 It is essential for anyone who is considering purchasing warrants to understand the right to subscribe which a warrant confers is invariably limited in time with the consequence that if the investor fails to exercise this right within the predetermined time-scale then the investment becomes worthless. You should not buy a warrant unless you are prepared to sustain a total loss of the money you have invested plus any commission or other transaction charges. Some other instruments are also called warrants but are actually options (for example, a right to acquire securities which is exercisable against someone other than the original issuer of the securities, often called a "covered warrant").

### 3.0 Off-Exchange Warrant Transactions

3.1 Transactions in off-exchange warrants may involve greater risk than dealing in exchange traded warrants because there is no exchange market through which to liquidate your position, or to assess the value of the warrant or the exposure to risk. Bid and offer prices need not be quoted, and even where they are, they will be established by dealers in these instruments and consequently it may be difficult to establish what is a fair price. We will make it clear to you if you are entering into an off-exchange transaction and advise you of any risks involved.

### 4.0 Securitised Derivatives

4.1 These instruments may give you a time-limited right to acquire or sell one or more types of investment which is normally exercisable against someone other than the issuer of that investment. Or they may give you rights under a contract for differences which allow for speculation on fluctuations in the value of the property of any description or an index, such as the FTSE 100 index. In both cases, the investment or property may be referred to as the "underlying instrument". These instruments often involve a high degree of gearing or leverage, so that a relatively small movement in the price of the underlying investment results in a much larger movement, unfavourable or favourable, in the price of the instrument. The price of these instruments can therefore be volatile. These instruments have a limited life, and may (unless there is some form of guaranteed return to the amount you are investing in the product) expire worthless if the underlying instrument does not perform as expected. You should only buy this product if you are prepared to sustain a total loss of the money you have invested plus any commission or other transaction charges. You should consider carefully whether or not this product is suitable for you in the light of your circumstances and financial position, and if in any doubt please seek professional advice.

### 5.0 Options

5.1 There are many different types of options with different characteristics subject to the following conditions:

- **Buying options:**

Buying options involves less risk than selling options because, if the price of the underlying asset moves against you, you can simply allow the option to lapse. The maximum loss is limited to the premium, plus any commission or other transaction charges. However, if you buy a call option on a futures contract and you later exercise the option, you will acquire the future. This will expose you to the risks described under 'futures' and 'contingent liability investment transactions'.

- **Writing options:**

If you write an option, the risk involved is considerably greater than buying options. You may be liable for margin to maintain your position and a loss may be sustained well in excess of the premium received. By writing an option, you accept a legal obligation to purchase or sell the underlying asset if the option is exercised against you, however far the market price has moved away from the exercise price. If you already own the underlying asset which you have contracted to sell (when the options will be known as 'covered call options') the risk is reduced. If you do not own the underlying asset ('uncovered call options') the risk can be unlimited. Only experienced persons should contemplate writing uncovered options, and then only after securing full details of the applicable conditions and potential risk exposure.

- **Traditional options:**

Certain London Stock Exchange member firms under special exchange rules write a particular type of option called a "traditional option". These may involve greater risk than other options. Two-way prices are not usually quoted and there is no exchange market on which to

close out an open position or to effect an equal and opposite transaction to reverse an open position. It may be difficult to assess its value or for the seller of such an option to manage his exposure to risk.

Certain options markets operate on a margined basis, under which buyers do not pay the full premium on their option at the time they purchase it. In this situation you may subsequently be called upon to pay margin on the option up to the level of your premium.

If you fail to do so as required, your position may be closed or liquidated in the same way as a futures position.

### 6.0 Contingent liability investment transactions

6.1 Contingent liability investment transactions, which are margined, require you to make a series of payments against the purchase price, instead of paying the whole purchase price immediately. If you trade in futures, contracts for differences or sell options, you may sustain a total loss of the margin you deposit with your firm to establish or maintain a position. If the market moves against you, you may be called upon to pay substantial additional margin at short notice to maintain the position. If you fail to do so within the time required, your position may be liquidated at a loss and you will be responsible for the resulting deficit. Even if a transaction is not margined, it may still carry an obligation to make further payments in certain circumstances over and above any amount paid when you entered the contract. Save as specifically provided by the FSA, your firm may only carry out margined or contingent liability transactions with or for you if they are traded on or under the rules of a recognised or designated investment exchange. Contingent liability investment transactions which are not so traded may expose you to substantially greater risks.

### 7.0 Futures

7.1 Transactions in futures involve the obligation to make, or to take, delivery of the underlying asset of the contract at a future date, or in some cases to settle the position with cash. They carry a high degree of risk. The 'gearing' or 'leverage' often obtainable in futures trading means that a small deposit or down payment can lead to large losses as well as gains. It also means that a relatively small movement can lead to a proportionately much larger movement in the value of your investment, and this can work against you as well as for you. Futures transactions have a contingent liability, and you should be aware of the implications of this, in particular the margining requirements, which are set out in the paragraph 6.

### 8.0 Limited liability transactions

8.1 Before entering into a limited liability transaction, you should obtain a formal dealing statement from us, a formal Written statement confirming that the extent of your loss liability on each transaction will be limited to an amount agreed by you before you enter into the transaction. The amount you can lose in limited liability transactions will be less than in other margined transactions, which have no predetermined loss limit. Nevertheless, even though the extent of loss will be subject to the agreed limit, you may sustain the loss in a relatively short time. Your loss may be limited, but the risk of sustaining a total loss to the amount agreed is substantial.

### 9.0 Contracts for differences

9.1 Futures and options contracts can also be referred to as contracts for differences. These can be options and futures on the FTSE 100 index or any other index, as well as currency and interest rate swaps. However, unlike futures and options, these contracts can only be settled in cash. Investing in a contract for differences carries the same risks as investing in a future or an option and you should be aware of these as set out in paragraphs 5 and 7 respectively. Transactions in contracts for differences may also have a contingent liability and you should be aware of the implications of this as set out in paragraph 6.

### 10.0 Collateral

10.1 If you deposit collateral as security with us, the way in which it will be treated will vary according to the type of transaction and where it is traded. There could be significant differences in the treatment of your collateral, depending on whether you are trading on a recognised or designated investment exchange, with the rules of that exchange (and the associated clearing house) applying, or trading off-exchange. Deposited collateral may lose its identity as your property once dealings on your behalf are undertaken. Even if your dealings should ultimately prove profitable, you may not get back the same assets which you deposited, and may have to accept payment in cash. You should ascertain from us how your collateral will be dealt with.

### 11.0 Commissions

11.1 Before you begin to trade, you should obtain details of all commissions and other charges for which you will be liable. If any charges are not expressed in money terms (but, for example, as a percentage of contract value), you should obtain a clear and Written explanation, including appropriate examples, to establish what such charges are likely to mean in specific money terms. In the case of futures, when commission is charged as a percentage, it will normally be as a percentage of the total contract value, and not simply as a percentage of your initial payment.

### 12.0 Non UK Markets

12.1 Non UK markets will involve different risks from the UK markets. In some cases the risks will be greater. On request, we will provide an explanation of the relevant risks and protections (if any) which will operate in any non UK markets, including the extent to which it will accept liability for any default of a foreign firm through whom we deal. The potential for profit or loss from transactions on non UK or in foreign denominated contracts will be affected by fluctuations in foreign exchange rates.

### 13.0 Suspensions of Trading

13.1 Under certain trading conditions it may be difficult or impossible to liquidate a position. This may, for example, at times of rapid price movement if the price rises or falls in one trading session to such an extent that under the rules of the relevant exchange trading is suspended or restricted. Placing a stop loss order will not necessarily limit your losses to the intended amounts, because market conditions may make it impossible to execute such an order at the stipulated price.

### 14.0 Clearing House Protection

14.1 On many exchanges, the performance of a transaction by us (or third party with whom we are dealing on your behalf) is "guaranteed" by the exchange or clearing house. However, this guarantee is unlikely in most circumstances to cover you, the customer, and may not protect you if we or another party defaults on its obligations to you. On request, we will explain any protection provided to you under the clearing guarantee applicable to any on-exchange

derivatives in which you are dealing. There is no clearing house for traditional options, or normally for off-exchange instruments which are not traded under the rules of a recognised or designated investment exchange.

#### **15.0 Insolvency**

- 15.1 Our insolvency or default, or that of any other brokers involved with your transaction, may lead to positions being liquidated or closed out without your consent. In certain circumstances, you may not get back the actual assets which you lodged as collateral and you may have to accept any available payments in cash. On request, we will provide an explanation of the extent to which we will accept liability for any insolvency of, or default by, other firms involved with your transactions.

### **Section Three**

#### **PEP & ISA Plans**

##### **1.0 Introduction**

- 1.1 These terms and conditions are in addition to the other sections in this agreement and apply to PEP & ISA Plans only. They form an integral part of this agreement.

##### **2.0 The PEP/ISA Service**

- 2.1 You appoint us to act as the plan manager for the administration of the plan(s) subject to the PEP/ISA Regulations as amended from time to time.
- 2.2 You warrant that you will not dispose of, or transfer an interest in, such investments, cash or rights unless a transaction is executed through the plan.
- 2.3 You must not create (or have outstanding) any charge or security over such investments, cash or rights. No documents of title may be lent to a third party and no money may be borrowed on your behalf against the security of the investments.
- 2.4 We may sell investments without your instructions, if appropriate, in order to avoid infringement of the PEP/ISA regulations.

##### **3.0 Start date**

- 3.1 A PEP/ISA Plan can only come into force when we have accepted your fully completed and signed application form and initial subscription or in the case of a transfer when we accept your duly completed and signed transfer form.
- 3.2 We may not accept any application without providing a reason, or to delay investment pending receipt of cleared funds.

##### **4.0 Subscriptions**

- 4.1 All cash subscriptions for your ISA must be made from your own resources and be received in pounds sterling by cheque, by acceptable electronic means, from Your Account or by other means accepted by us from time-to-time. Including but not limited to Your Client Money Account.
- 4.2 ISA cash subscriptions must be made with a minimum initial investment (currently £1,000) which may be further supplemented at a later date up to the maximum permitted subscription limits under the ISA regulations in amounts not less than £500.
- 4.3 Subscriptions may also be made by either a share exchange facility or by direct transfer of shares issued to you under an approved profit-sharing scheme, savings related share option scheme and/or all-employee share ownership plan.
- 4.4 No further subscriptions can be made into any PEP Plan.
- 4.5 Subscriptions must comply with section one paragraph 6.1.

##### **5.0 Plan Transfers**

- 5.1 We will only accept the transfer of a PEP and/or ISA plan(s) if they conform to the PEP/ISA regulations.
- 5.2 We may refuse any transfer application(s) without providing a reason, or delay investment pending receipt of cleared funds.
- 5.3 Any PEP and/or ISA plan(s) that are successfully transferred to us will be amalgamated with any existing PEP and/or ISA plan(s) you may hold with us.
- 5.4 At your Written request and within a period of 30 calendar days from receipt, we will transfer your PEP and/or ISA plan(s) or part of a PEP and/or ISA plan, with all rights and obligations attached, to your nominated approved PEP/ISA plan manager who agrees to accept the transfer, subject to the charges published in the Schedule of Fees and Charges.
- 5.5 The transfer of a plan to a new plan manager will be without prejudice to the completion of transactions already initiated.
- 5.6 Once the plan(s) is/are transferred we will continue to monitor the plan(s) for any further income that may be due to you. If any income is received we will forward this to the new plan manager.
- 5.7 When we agree to accept the transfer of a PEP and/or ISA plan(s) we will contact the existing plan provider and arrange the transfer. Once we have received notification of the investment(s) and checked their qualifying status we will advise the plan manager as to whether we will accept the transfer.
- 5.8 You will not be allowed to trade the investments during any transfer process.

##### **6.0 Qualifying Investments**

- 6.1 Investments must be made in accordance with the appropriate PEP/ISA regulations, and will be subject to these standard terms and conditions.
- 6.2 Any cash held within the plan will attract interest as per the Schedule of Fees and Charges. However amounts of less than £5 may not be credited and will not accrue to the next period.
- 6.3 Cash may only be held for the purpose of investment in qualifying investments. Cash is not a qualifying investment in its own right and a plan may not be held for the express purpose of sheltering interest arising from cash on deposit from tax. Where interest earned on uninvested cash within a PEP exceeds a statutory threshold in any tax year (currently £180), all interest within that tax year, if withdrawn from the plan, is subject to a deduction of tax at the current basic rate. This will be paid to the Inland Revenue by us and you will be required to declare this to the tax authorities.
- 6.4 Should any investment(s) within the plan(s) become ineligible we will write to you with two options. The first will be to sell the investment and retain the proceeds within the plan(s) to purchase a qualifying investment and the second will be to withdraw the investment from the plan(s) altogether. We may charge for this. If we do not hear from you by the date given in the letter we may sell the holding(s) where we are able to do so.

- 6.5 You may be able to apply for public offer shares and other Corporate Events in qualifying companies including investment trusts using cash held in the plan. If sale proceeds are to be used, sufficient cleared funds must be available before the deadline to take up the offer. If there are insufficient funds in a plan you may take up the Corporate Event in your own name outside the plan.

##### **7.0 Tax Relief**

- 7.1 We will make all necessary claims under UK legislation, where it is available, in respect of your investments, excluding international securities and non-equity dividends. Any monies claimed will be credited to your plan(s).

##### **8.0 Charges and Other Fees**

- 8.1 An administration charge as per the Schedule of Fees and Charges will be deducted from each plan from cash held within the plan in full or in part in arrears on the date(s) stipulated in our Schedule of Fees and Charges or upon closure. This will NOT be calculated on a pro rata basis.
- 8.2 Charges can be paid with money from outside the plan. The payment must be received by us within one calendar month from the date of the statement.
- 8.3 If there are insufficient funds within any plan to meet the administration charge in part or in full we may at our absolute discretion liquidate sufficient holdings to raise funds to the value of the outstanding amount and to cover any transactional charges. In any event your liability to pay due administrative charges will not be extinguished by the exhaustion of funds in a plan.
- 8.4 All transaction charges carried out under the terms of this agreement (e.g. dealing commission, stamp duty, stamp duty reserve tax and PTM levy) will be made at the rates currently applicable. These charges must be met from funds within the plan.

##### **9.0 Income**

- 9.1 Any income from dividends, tax credits (where applicable), interest or Corporate Events will not be reinvested automatically. The responsibility for reinvestment of such funds will be yours and will be subject to our normal charges listed in our Schedule of Fees and Charges. Until such income is reinvested it will remain in the plan.
- 9.2 We do not offer automatic payment of income arising in your plan. Should you wish to withdraw any funds from your plan you must request this in writing, which will be subject to a minimum withdrawal of £500.
- 9.3 Substantial cash amounts cannot remain un-invested in a non-cash PEP and/or ISA plan indefinitely. We will write to you periodically if we consider the plan(s) have accumulated a substantial cash balance.
- 9.4 All interest arising on cash on deposit within an ISA is subject to a Flat Rate Charge, which is currently 20%. This will be deducted and paid to the Inland Revenue by us.

##### **10.0 Investor Obligations**

- 10.1 In order to comply with our obligations under this agreement and the regulations governing PEP and ISA Plans, you must supply all personal details that we reasonably request. If we do not receive such information within 30 calendar days of opening, the plan(s) will become void and closed with the loss of all tax exemptions and the assets (if any) will be returned to you.
- 10.2 If you cease to be resident and ordinarily resident in the UK or, if not so resident, cease to perform duties as a Crown employee serving overseas, or cease to be married to such a person, you must notify the plan manager in writing immediately. This change in status affects your ability to subscribe to the ISA plan(s) and no further subscriptions can be made until the residence conditions are satisfied again.

##### **11.0 PEP/ISA Closures and Withdrawals**

- 11.1 If we believe the plan(s) is/are impossible to administer we will write giving notice to you of our intention to terminate the plan(s) in accordance with the regulations. The plan(s) concerned will be closed with immediate effect and it will be considered 'void' under the terms of the regulations. Closure will be subject to the charges as per the Schedule of Fees and Charges.
- 11.2 At your Written request and within a period of 30 calendar days from receipt, we will either transfer or pay all or part of the investments held in the plan to you subject to the charges as per the Schedule of Fees and Charges, provided there is no outstanding debt on Your Account. Once a plan is closed we will continue to monitor the plan for any further income that may be due. If any income is received we will forward this to you.
- 11.3 Once a plan is closed we will continue to monitor the plan for any further income that may be due. If any income is received we will forward this to you.
- 11.4 We may give one calendar month's notice in writing to terminate any plan at any time. During this period the plan must be transferred or closure will be effected.
- 11.5 If the value of a PEP and/or ISA plan falls below £250 we may close the plan. Closure will be subject to the charges as per the Schedule of Fees and Charges.

##### **12.0 Death of the Investor**

- 12.1 In the event of your death any plan(s) will automatically come to an end with the cessation of all tax exemptions from the date of death.
- 12.2 All fees and charges will continue to be levied until such a time that the closure of the plan(s) has been completed.

##### **13.0 Voids**

- 13.1 We will notify you in writing if, by reason of any failure to satisfy the provisions of the PEP/ISA regulations, a plan has, or will, become void.
- 13.2 In such an event that a plan must be fully voided and closed then this action will be subject to an appropriate administration charge. The remaining balance (if any) will then be returned to you.
- 13.3 In such an event that a plan is deemed void you must declare the details of any interest, dividends and capital gains or losses arising on the investment(s) to the tax authorities. This may result in a tax liability.

Other Fees and Charges as referred to in the Standard Schedule of Fees and Charges.

#### Other Normal Charges

Payment by BACS	No charge
Payment by Cheque per cheque	15.00
Specially requested payment <i>(in addition to other charges)</i>	10.00
Foreign Currency Conversion per conversion	5.00
CHAPS <i>(same day payment)</i>	25.00
Provision of statement on request <i>(each)</i>	2.00
Inactivity Fee <i>(maximum)</i>	25.00
Stamp duty <i>(purchases only)</i>	at the rate applicable at the time of transaction
Stamp duty <i>(Irish registered stock)</i>	at the rate applicable at the time of transaction
Stamp duty <i>(Residual stock)</i>	at the rate applicable at the time of transaction
PTM Levy	at the rate applicable at the time of transaction
Custody of assets	
Held in our Nominee UK	No charge
per quarter for each security held at the end of a calendar quarter	
Held overseas in our Nominee	5.00
Held by us in your name	5.00
Registration of death - per letter	15.00

#### Other Exceptional Charges

Late payment / Late delivery	
Interest <i>(Percent above Bank of Scotland base rate)</i>	8%
Fee	25.00
Unpaid or returned payments to us <i>(cheques or electronic)</i>	30.00
Duplicate documents <i>(each)</i>	20.00
Indemnities <i>(each)</i>	25.00

Other services by arrangement

VAT will be added to the above charges where appropriate at the rate ruling on the date of the transaction. All Fees and Charges are shown in pounds sterling.