

Nucleus terms of business

Edition 04

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1. Introduction

These terms of business govern the relationship between Nucleus Financial Services Limited ("Nucleus"), and the Adviser Firm (as defined below) and specify the only basis on which Nucleus will provide wrap platform services to the Adviser Firm. The parties acknowledge that Nucleus also enters into terms and conditions with Clients in respect of the Services.

These terms of business, together with the TOB Form (as defined below), constitute a legally binding agreement (the "Agreement") between Nucleus and the Adviser Firm.

This Agreement shall be effective from the date of receipt by Nucleus of the TOB Form duly signed on behalf of the Adviser Firm (the "Commencement Date") and shall continue, as may be amended in accordance with its terms, until terminated in accordance with clause 10.

If there is a conflict or ambiguity between this Agreement and any other literature you receive in connection with the Nucleus wrap service, this Agreement shall take precedence.

2. Definitions

- Act means the Financial Services and Markets Act 2000 (as amended from time to time)
- Access Details means the username, password and any view or amend permissions associated with the Users of the Service
- Account means the accounts available for Clients as part of the Service from time to time
- Adviser means any financial adviser approved by the FCA to give financial advice and employed by or otherwise engaged by the Adviser Firm
- Adviser Firm means the firm whose name, address and FCA number are set out in a TOB Form signed and returned to Nucleus
- Agreement means this document and the TOB Form as amended and updated from time to time in accordance with its terms
- Applicable Laws means the laws of England and Wales and any other applicable laws or regulations in any jurisdiction, including without limitation the Product Governance Requirements, Data Protection Legislation, the FCA Rules (and/or any regulatory requirements of the FCA), HMRC rules and money laundering regulations which apply to Nucleus and/or the Adviser Firm
- Application means an application and Declaration submitted by or on behalf of a Client to open one or more Accounts
- Asset means cash, shares/units in funds, listed securities, term deposits and any other asset that may be held or traded within a Client Portfolio in compliance with the Nucleus Terms and Conditions
- Business Day means any day on which the London Stock Exchange is open for business
- Client means any person, trust or corporate entity on whose behalf the Adviser Firm acts in relation to the Platform
- Client Portfolio means the Assets held on behalf of a Client on the Platform
- Compliance Officer means the controlled function holder notified to the FCA as responsible for compliance by the Adviser Firm
- Data Controller, Data Subject, Personal Data, and Processing have the meanings given to those terms in Data Protection Legislation, and "Process" shall be construed accordingly
- Data Protection Legislation means any Applicable Laws that apply from time to time to the Processing of Personal Data by either Nucleus or the Adviser Firm, including, to the extent applicable to this Agreement, EU Data Protection Directive 95/46/EC, the EU Privacy & Electronic Communications Directive 2002/58/EC, Regulation (EU) 2016/679 (if and from the date that it enters into force in the United Kingdom), all national implementing legislation (including the Data Protection Act 1998 and the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2003/2426))

2. Definitions

- Dealing means the dealing activity and transactions that may be performed through the Service with respect to Assets including, without limitation, the purchase, redemption, switching and conversion of shares/units in funds and "Deal" shall be interpreted accordingly
- Declaration means the form signed by the Client as part of their Application for an Account
- Distributor means a firm which offers, recommends or sells financial instruments (including the Assets) or provides investment services to clients and does not act as a Manufacturer
- Distributor-Only Information means such information and/or material made available by the relevant Manufacturer and which, either: (i) is identified and/or marked as for use and/or dissemination only to distributors; and/or (ii) such Manufacturer has indicated should not be made available to Clients
- DFM means a discretionary fund manager which has entered into agreements with the Adviser Firm and Nucleus respectively
- FCA means the UK Financial Conduct Authority or any successor regulator from time to time
- FCA Rules means the FCA's Handbook of Rules and Guidance as amended from time to time
- KIID means the current NURS-KII, PRIIPs KID or UCITS KIID in respect of an Asset
- Legal Documents means the prospectus, KIID, key features document, scheme particulars and any other principal document in relation to any Asset as required by Applicable Law and as amended or supplemented from time to time
- Management Information means, in respect of the Assets, information on sales, the Distributor's Target Market, and complaints received, each as reasonably requested by Nucleus
- Manufacturer means a firm which creates, develops, issues and/or designs financial instruments (including the Assets), either on its own or in collaboration with another manufacturer
- MiFID means Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and any applicable supporting or implementing law, rule or regulation as amended or restated from time to time, or (if repealed) any successor legislation
- Negative Target Market means any groups of Clients for whose needs, characteristics and objectives the Asset(s) or relevant investment service is not compatible
- Nucleus means Nucleus Financial Services Limited (company number: 05629686) a company incorporated under the laws of England and Wales whose registered office is at One London Wall, London, EC2Y 5AB, which is authorised and regulated by the Financial Conduct Authority (number 456117). Where applicable, Nucleus also includes Nucleus Financial Group Limited and its subsidiaries
- Nucleus Privacy Notice means Nucleus's then prevailing privacy notice, a copy of which is available at nucleusfinancial.com/terms-and-conditions/privacy-policy/
- Nucleus Terms and Conditions means the then prevailing terms and conditions between Nucleus and the Client for the provision of the Service to the Client in conjunction with the Adviser appointed by the Client
- NURS-KII means the current non-UCITS Retail Scheme Key Investor Information
- Platform means the Nucleus wrap platform accessed at www.nucleusfinancial.net/wrap/public/ or any successor website
- PRIIPs KID means the current Packaged Retail Investment and Insurance-Based Products Key Information Document
- Product Governance Requirements means all aspects of Applicable Laws related to product governance requirements, including as at the date hereof, the FCA's PROD rules, ESMA's Guidelines on MiFID II product governance requirements as amended from time to time, and applicable local laws, rules, regulations and guidance implementing such requirements in the relevant jurisdiction
- Service means the arranging, safeguarding, administering and distributing of investments which make up the Nucleus wrap service including all features and functionality accessed through the Platform from time to time
- Target Market means those Clients within the target market of the relevant Asset as identified by the relevant Manufacturer, Nucleus or the Adviser Firm (as applicable) from time to time as being the customer population for whom the relevant Asset will most likely be compatible, and those customers for whom the Asset is not compatible, in accordance with this Agreement and Applicable Laws
- TOB Form means the form signed by the Adviser Firm from time to time and submitted to Nucleus which, together with this Agreement, constitutes your agreement with us
- UCITS KIID means the current key investor information document in respect of an Asset that is an undertaking for collective TOB Form means the form signed by the Adviser Firm from time to time and submitted to Nucleus which, together with this Agreement, constitutes your agreement with us
- User means any Adviser or other person employed by the Adviser Firm who is provided with Access Details for the Service
- Wrapstore means additional products or services that may be provided by Nucleus and/or third parties that may be available to complement the Nucleus wrap

3. General

This Agreement sets out the availability and main features of the Service, how Nucleus receives and acts on the instructions that you provide. It also covers the responsibilities of the Adviser Firm and Users.

Availability of the Service is restricted to Adviser Firms that are regulated by the FCA, either directly or via a network, and its Users and Nucleus reserves the right to suspend use of the Platform if necessary and undertakes to do so in accordance with the terms of this Agreement.

Nucleus may subcontract or delegate any functions under this Agreement or any element of the provision of the Service to one or more third parties. Where such subcontracting or delegation occurs, Nucleus will ensure that all Applicable Laws are, and continue to be, satisfied in addition to exercising appropriate oversight.

Nucleus may record all telephone conversations and electronic communications with the Adviser, the Adviser Firm or the Client although it will not be obliged to do so if the conversation or communication does not relate to, or is not intended to result, in the conclusion of a transaction or order. Nucleus may use such recordings in the event of any dispute.

4. Compliance

Suitability

Nucleus is not authorised to provide financial advice and does not recommend or endorse any Asset or wrapper available through the Service. It is the Adviser Firm's responsibility to ensure the suitability of any product, Asset or tax wrapper for the Client in accordance with Applicable Law. Under no circumstances will Nucleus provide recommendations or investment or financial advice in relation to the Service and any Client enquiries for such a recommendation or advice will be referred to the Adviser Firm.

When assessing the suitability of any product, Asset or tax wrapper for the Client the Adviser will review the Legal Documents associated with said investment and only submit investments in compliance with said Legal Documents. In particular any assessment will consider any jurisdictional limitations the product, Asset or tax wrapper has including the residential status of the Client. The Adviser and the Adviser Firm will not act in any manner which is inconsistent with the terms of the relevant Legal Documents.

Conflicts of interest

The Adviser Firm agrees that it will take all reasonable and appropriate steps to identify and to prevent or manage conflicts of interest between the Adviser Firm, Advisers, employees, appointed representatives, agents, or Clients, or between one Client and another Client that may arise in relation to its use of the Services and/or its activities under this Agreement.

Information sharing

The Adviser Firm agrees to provide (and procure that its sub-distributors provide) to Nucleus Management Information (in such format as Nucleus may require from time to time) and any other information or documents relating to the subject matter of this Agreement which Nucleus may reasonably request from time to time for the purposes of fulfilling its regulatory or contractual obligations, including without limitation any information requested by the Manufacturer of an Asset from time to time.

On an annual basis the Adviser Firm will be asked to confirm that the information held by Nucleus regarding the Adviser Firm is accurate and complete. The Adviser Firm shall also be required to update Nucleus of any material changes to this information as soon as possible after becoming aware of such changes. The Adviser Firm shall promptly provide such confirmation or provide details of any material changes to such information (as the case may be).

4. Compliance

Product governance

To the extent that Assets constitute financial instruments for the purposes of the FCA Rules, each of Nucleus and the Adviser Firm agrees that, in respect of such Assets, it acts as a Distributor and that it is not a Manufacturer in respect of such Assets.

The Adviser Firm agrees that in providing its services to Clients in connection with this Agreement it distributes the Assets to Clients for the purposes of the Product Governance Requirements and it is therefore responsible for ensuring that the Product Governance Requirements are met in respect of the distribution of the Assets to such Clients.

The Adviser Firm shall not distribute Assets unless it is satisfied it has the necessary expertise to understand the characteristics and risks of the Assets and the needs, characteristics and objectives of the relevant Asset's Target Market as identified by the relevant Manufacturer (the "Manufacturer's Target Market") and that it meets the relevant knowledge and competency standards set out in MiFID.

The Adviser Firm undertakes to Nucleus that, pursuant to the Product Governance Requirements, it shall (or it shall procure that its sub-distributors or other delegates shall):

- determine its own Target Market for each Asset in accordance with Applicable Laws, such target market to be within the Manufacturer's Target Market for the relevant Asset;
- identify any Negative Target Market, and take all reasonable steps to ensure that no Asset is sold or distributed to Clients within such Market except as provided for under Applicable Law;
- promote and market the Assets solely to Clients domiciled in countries where each Asset is authorised or registered for sale;
- notify Nucleus as soon as reasonably practicable if the Adviser Firm becomes aware that an Asset has been marketed and/or sold to a Client outside of the identified Target Market.

Payments

Where the Adviser Firm and/or any of its affiliates receive fees, commission and/or any other non-monetary benefits (a "Payment") and/or retains such Payment (rather than transferring it to Clients), the Adviser Firm represents, warrants and undertakes to Nucleus that it and/or its relevant affiliates are entitled to receive and/or retain such Payment in accordance with all Applicable Laws, and shall promptly notify Nucleus in writing if the Adviser Firm and/or any of its affiliates is not, or ceases to be, entitled to receive and/or retain such Payment.

US persons

The Adviser Firm acknowledges that the Nucleus wrap service is unavailable to US nationals and US residents ("US Persons"). The Adviser Firm is responsible for notifying Nucleus should the Adviser Firm become aware that a Client is a US Person or subsequently becomes a US Person. The Adviser Firm agrees that it will not solicit applications for investment from, or offer for sale or sell directly or indirectly, any Assets in, the United States or to or for the account of any US Person.

Client categorisation

The Adviser Firm has a responsibility for determining which FCA client category is appropriate for each Client using the Service, for explaining to their Clients how this affects their rights and ensuring that this is accurately communicated to Nucleus via the Platform.

Although Nucleus expects the significant majority of instructions and queries to arise from Users, Nucleus may from time to time also receive instructions and queries direct from individual Clients. Nucleus therefore has regulatory permission to deal with professional and retail clients although, at Nucleus' discretion Client instructions may be confirmed with the Adviser Firm before being processed.

Anti-money laundering

In connection with all transactions with Nucleus, the Adviser Firm shall ensure that, where required to do so in terms of the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 as amended and/or any other Applicable Law, evidence of the identity and the source of funds of all Clients shall have been obtained and recorded and such records will be preserved under procedures maintained by the Adviser Firm in accordance with and pursuant to all Applicable Law. The Adviser Firm acknowledges that Nucleus is reliant upon the Adviser Firm carrying out the relevant checks as part of its money laundering responsibilities.

The Adviser Firm agrees that it will have in place a client screening program to identify politically exposed persons who shall be subject to enhanced due diligence and on-going monitoring in accordance with Applicable Law and good industry practice. The Adviser Firm will also use all reasonable endeavours to ensure that they do not accept or maintain investments, directly or indirectly, from a person or entity who is or becomes subject to sanctions administered by the U.S Office of Foreign Assets Control ("OFAC"), or any other lists of prohibited persons and entities as may be mandated by the relevant Applicable Law.

An Application submitted by the Adviser Firm on behalf of a Client shall be accompanied by a declaration on behalf of the Adviser Firm confirming that all of the necessary checks (depending on the type of client) have been completed by the Adviser Firm. The Adviser

4. Compliance

declaration will be in a format approved by Nucleus' Money Laundering Reporting Officer from time to time, or otherwise as Nucleus may reasonably require. Nucleus shall be under no obligation to provide the Service in respect of any Client where the declaration is incomplete, and shall not be liable to the Adviser Firm or to the Client for any loss they may suffer as a result.

The Adviser Firm shall promptly supply to Nucleus such relevant verification data, with regard to the identity of the Client and any such relevant third party, including the source of funds, as Nucleus may consider appropriate having regard to Nucleus' obligations arising from any Applicable Laws and regulations that Nucleus is required to comply with in connection with the prevention of money laundering.

Market abuse

The Adviser Firm must not use the Service to deliberately, recklessly or negligently by act or omission engage in market abuse (within the meaning of Part VIII of the Act) ("Market Abuse") or insider dealing (within the meaning of Part V of the Criminal Justice Act 1993) ("Insider Dealing"), or require, encourage or facilitate another person, including a Client, to do so.

The Adviser Firm will not use the Platform to facilitate tax evasion offences within Part 3 of The Criminal Finances Act 2017. Any suspected activity will result in reports to the HMRC Fraud hotline.

Anti-bribery and corruption

The Adviser Firm undertakes to comply and shall procure that its officers, employees and agents (including without limitation Advisers) complies with all Applicable Laws relating to anti-bribery and corruption in the jurisdiction in which they carry on its business activities. In particular, but without limitation, the Adviser Firm confirms that it has in place appropriate procedures so as to detect, prevent and deter any form of bribery or corruption in any of its business activities.

5. Instructions and use of the Platform

The Adviser Firm warrants and undertakes that the Adviser Firm and all Users shall hold the relevant regulatory and legal permissions to use the Platform and to provide regulated services to its Clients. Where this, or any element of it, is subcontracted, it remains the responsibility of the Adviser Firm and, in particular, for ensuring that any third parties are appropriately authorised to conduct investment business on each and every occasion that an Application is submitted or an instruction is made.

Subject to User's Access Details and Nucleus being satisfied that a valid Client authority is in place, a User may give instructions on behalf of a Client.

Assessing whether a valid Client authority is in place will be at the sole discretion of Nucleus and it may consist of either an appropriate and current instruction from the Client in respect of a particular instruction or an agreement with a DFM.

The Adviser Firm acknowledges its responsibility to understand the operational features of the Platform. It is the Adviser Firm's responsibility to ensure that all Users are trained appropriately with regard to the Service and keeping their Access Details secure. Nucleus accepts no liability for the misuse or wrongful use of any of the Platform functionality by Users, including, but not limited to, Adviser Firm and Client losses arising as a result of such misuse or wrongful use. The Adviser Firm hereby agrees to indemnify Nucleus and any Nucleus group companies and employees, servants, agents and nominees from and against any and all costs, claims, regulatory fines, demands, losses, expenses or liabilities suffered by or arising as a result of the misuse or wrongful use of any of the Platform functionality by Users, including, but not limited to, Adviser Firm and Client losses arising as a result of such misuse or wrongful use.

The Adviser Firm warrants that prior to submitting an Application or any other investment instruction in relation to an Asset, the Client has received the relevant Legal Documents, Nucleus Terms and Conditions and any other documentation required to be issued to Clients pursuant to any Applicable Law. The Adviser Firm shall supply all relevant and supporting documentation in relation to an Application and ensure compliance with Applicable Laws.

The Adviser Firm warrants and undertakes that the information in each Application has been submitted by the relevant Client and the Client has authorised the Adviser Firm to submit the Application on his or her behalf or has permitted the Adviser Firm to give instructions on a discretionary basis. The Adviser Firm warrants and undertakes that any instructions provided to Nucleus to Deal in Assets have been authorised by the Client.

The Adviser Firm is responsible for ensuring that Distributor-Only Information is not made available and/or provided to Clients and information provided to it from time to time by Nucleus that is intended to be communicated to Clients is so communicated in an appropriate manner and in good time.

5. Instructions and use of the Platform

The Adviser Firm undertakes to provide in a timely fashion all such documentation and information (including without limitation any current legal entity identifier ("LEI") or natural person identifier ("NPI") relating to the Client) and to promptly take all such action as Nucleus may from time to time reasonably require for the purposes of compliance with any regulatory reporting or position reporting obligations to which Nucleus may from time to time be subject in providing the Service.

Nucleus may refuse to accept instructions from the Adviser Firm for any of the following reasons:

- where the Adviser Firm has ceased to act for the Client;
- where the Client is deceased and the Adviser Firm has not been instructed by the executors administering the estate;
- where the Adviser Firm ceases to be authorised under the Act with all necessary permissions to carry on its activities under this Agreement or authorisation is suspended (or from an Adviser where the Adviser ceases to be authorised under the Act or authorisation is suspended);
- where doing so would in Nucleus' opinion create or potentially create a breach of any Applicable Laws or be in breach of the Nucleus Terms and Conditions;
- where the Adviser Firm fails to timeously provide any current LEI, NPI or other information or documentation required by Nucleus for compliance with any regulatory reporting or position reporting obligations in respect of any such instruction;
- where the Client has revoked the Client authority or Nucleus is unable to ascertain the validity or date of such authority or where Nucleus has reasonable concerns that the instruction is not current;
- where Nucleus believes that relevant and appropriate due diligence and money laundering checks have not been performed or have not been performed in compliance with Applicable Laws in relation to the Client;
- where the Client, or potential client, is a US Person;
- where the Adviser Firm has failed to promptly provide (within 3 Business Days) evidence of due diligence and money laundering checks which Nucleus has requested; or
- in any other circumstances, where Nucleus, acting reasonably, considers it appropriate.

6. Fees

This section applies to all fee payments made by Nucleus on behalf of the Client to the Adviser Firm in relation to the Service.

Nucleus may facilitate the payment of advice fees from the Client to the Adviser Firm. The amount or rate of the advice fees shall be determined by the Client and the Adviser and communicated to Nucleus with a signed Client instruction. Should there be any change to the level of the advice fee, it is the responsibility of the Adviser Firm to inform Nucleus and to provide a signed Client instruction in relation to any change in the level of fees. Until such time as a new Client instruction is received by Nucleus, any changes to adviser fees cannot be implemented and any such change will not be backdated.

Nucleus will arrange for the transfer of the fee from the relevant Account to a UK bank account designated by the Adviser Firm.

All ongoing advice fees will be calculated daily and deducted monthly from a Client's Account in a manner consistent with the Nucleus Terms and Conditions and will be paid to the Adviser Firm monthly within 5 Business Days of calculating the amount to be deducted. Statements of fee accounts are available from the Platform from the date that the fee run has been completed.

Initial advice fees and any ad hoc fees are calculated in accordance with the Client instruction and are paid within 5 Business Days of calculating the amount to be deducted from the Client Account.

In order to ensure payment of all fees, it shall be the responsibility of the Adviser Firm to ensure that the Client maintains the minimum cash balance as required by the Nucleus Terms and Conditions. We reserve the right to sell Assets in the Account to restore the cash balance to the minimum cash balance.

Nucleus may at its discretion suspend or cease to collect and pay fees to the Adviser Firm. This discretion may, for example, be exercised where:

- Nucleus is instructed to do so by a Court appointed receiver, liquidator, or administrator in respect of the Adviser Firm;
- the Adviser Firm ceases to be authorised under the Act with all necessary permissions to carry on its activities under these terms of business or authorisation is suspended;
- in respect of a Client's Portfolio, the Adviser Firm has ceased to act for the Client, or Nucleus believes that the Adviser Firm has ceased to act for the Client;
- the Adviser Firm for any reason becomes subject to an investigation under the provisions of the Act, or by the FCA or any other regulatory authority or body;
- Nucleus has received an instruction from the Client to stop facilitating the advice fee; or
- Nucleus considers that the collection and/or payment of such fees may constitute a breach of Applicable Law and/or the Nucleus Terms and Conditions.

Where a Client elects to cancel an Account in accordance with the Client cancellation rights detailed in the Nucleus Terms and Conditions, the Adviser Firm will not be entitled to any fee in respect of this Account.

Should the Adviser Firm receive an overpayment of fees, or payment of fees in error, or payment in respect of an Account which is cancelled within the cooling-off period and results in Nucleus being required to refund monies to a Client, the amount of the overpayment of fees will be deducted by Nucleus from the next monthly fee due to the Adviser Firm and repaid to the relevant Client unless the Adviser Firm otherwise repays the overpayment. Should the next monthly fee be insufficient to cover the amount of the overpayment, Nucleus reserves the right to deduct the amount of the outstanding overpayment from future monthly fees due until such time as this debt is fully repaid. If the fee remains unpaid after a period of 6 months from the date of notification to the Adviser Firm by Nucleus, Nucleus reserves the right to charge interest on the amount of the overpayment at 2% above the base rate of the Bank of England from time to time from the date of notification to the date of payment.

7. Security

All Users shall have Access Details that will represent their permission to use the Service.

An access form must be completed on behalf of each User. Following receipt of a complete and accurate User access form Nucleus shall create new Access Details for the relevant User.

The Adviser Firm is responsible for ensuring the initial and ongoing accuracy of the details, status or access rights of the Adviser Firm's Users and for ensuring that Nucleus is informed of any changes to those details, status or access rights before such a change, or where this is not possible, as soon as possible following such a change and in any event no later than 3 Business Days of such change to the details, status or access rights of a User.

Under no circumstances is an Adviser Firm or a User permitted to disclose details of its Access Details to any other person. The Adviser Firm will notify Nucleus immediately should a User leave the Adviser Firm or should the Adviser Firm or an Adviser cease to be authorised to advise Clients using the Service, or where an Adviser or the Adviser Firm ceases to act for a particular Client or group of Clients. The Adviser Firm hereby agrees to indemnify Nucleus and any Nucleus group companies and employees, servants, agents and nominees from and against any and all costs, claims, regulatory fines, demands, losses, expenses or liabilities suffered by or arising as a result of any person other than the User accessing the Service with their Access Details or arising from a User leaving the Adviser Firm and continuing to access the Service or the Adviser Firm, or an Adviser ceasing to be authorised to advise Clients or if the Adviser Firm ceases to act for a particular Client or group of Clients, in each case, including (but not limited to) where they continue to access the Service.

Nucleus maintains a list of all of its authorised Users and the Compliance Officer of each Adviser Firm must on request from Nucleus confirm that this is up to date. The Adviser Firm shall procure that any User that becomes aware that their password security has been breached shall use best endeavours to inform Nucleus immediately to block access to the Service with his or her Access Details.

Nucleus reserves the right, at its sole discretion, to amend or suspend a User's Access Details at any time if Nucleus has any concerns about the use of or access to the Service. Such action may result in withdrawal or suspension of the Service to that User. In such circumstances the Adviser Firm shall remain bound by the terms of this Agreement.

8. Records

Users may access the Platform to Deal, view, create or amend Client data, or other aspects of the Service in accordance with their Access Details.

The Adviser Firm is responsible for maintaining its own records in respect of each Client Portfolio. Once Access Details have been suspended or terminated in accordance with the Agreement, the Adviser Firm will have no access to Client Portfolios or any other data but, subject to compliance with Applicable Laws and Clause 10, Nucleus will provide information upon reasonable request and where required by a regulatory body.

9. Additional features

DFM

Nucleus provides model portfolio self-service for DFMs to create model portfolios on the Platform. Where the Adviser Firm (acting as agent for its Clients) contracts the services of any DFM that has an agreement with Nucleus, Nucleus will only provide access to the model portfolio of the DFM when it has received confirmation from the DFM that the appropriate agreement is in place.

The Adviser Firm acknowledges that it is responsible for:

- ensuring that a Client authority letter is provided to Nucleus in order for Nucleus to facilitate the payment of any DFM fees and for the relevant Account to be included in any rebalancing of the model portfolios; and
- informing the DFM of any activity being taken on the Account which may impact the application of the model, for example sells being placed for an intra-account transfer or withdrawal.

The Adviser Firm warrants and undertakes to Nucleus that it shall:

- be responsible for ensuring that at all times the model portfolios (and any amendments thereto) that are linked to a Client Portfolio have been correctly applied to each Client Portfolio in accordance with the Client's instructions and consistent with the Client's attitude to risk and informing the DFM as soon as possible if this is not case;
- immediately notify Nucleus in writing if the Adviser Firm terminates the DFM's appointment or the Client withdraws their consent to the appointment of the DFM and the payment of any fees to the DFM;
- be responsible for assessing the suitability of the model portfolios selected for each Client;
- be responsible for notifying Nucleus of the correct level of any DFM fees paid to the DFM and notifying Nucleus of any change to that level and if required submitting a new Client authority letter;
- not, whether by act or omission, do anything at any time to prejudice the correct application of the model portfolios to the Client Account, or any re-balancing, whether through any dealing activity, placing of transactions, switching or otherwise, and will take all steps necessary to ensure that at all times the model portfolios are consistently applied to the Client's Account in order to maintain the risk profile or any other intended investment objective;
- not make any modifications to the Assets within a model portfolio managed by a DFM.

9. Additional features

Third party product providers

Nucleus may permit accounts to be opened in the name of third party product providers in the general and general (gross) account. It is the responsibility of the Adviser to ensure that:

- the Application is properly made in accordance with any requirements of the third party product provider;
- the correct client categorisation information is included; and
- Assets are managed in accordance with instructions of the third party product provider (taking into consideration any permitted investment restrictions of the third party product provider).

Where an Adviser Firm wishes to open an Account in the name of a third party product provider, the Adviser Firm agrees that the underlying client that holds the account and/or policy with the relevant third party product provider shall also be considered the "Client" (in addition to the relevant third party product provider) for the purposes of the "suitability" provisions contained in clause 4 of this Agreement.

Application Programming Interface ("API")

Nucleus has developed an API link to allow third party providers of certain software services to access the Platform upon your request. Nucleus enters into agreements with the providers of software services and upon written instruction from an Adviser Firm, in a form acceptable to Nucleus, will provide read only access to the relevant data to the software provider.

Where there are services being offered by a third party via the Service, the Adviser Firm accepts responsibility for ensuring that such services are appropriate for the Client and that the Adviser Firm utilises these services in accordance with the applicable terms of use as published on the Platform.

10. Termination and suspension

Nucleus shall be entitled to suspend the Service without liability to the Adviser Firm with immediate effect by notice in writing to the Adviser Firm in the event that:

- Nucleus reasonably believes that the Service is being used by the Adviser Firm in an unauthorised manner or in breach of Applicable Law;
- the Adviser Firm is in breach of any of its obligations under this Agreement; or
- the FCA or any other regulatory body requires Nucleus to suspend the Service.

Nucleus shall be entitled to terminate this Agreement without reason upon the provision of six months' written notice to the Adviser Firm or with immediate effect of written notice where the Adviser Firm ceases to have the requisite FCA permissions to perform any of its activities or obligations under this Agreement.

Without prejudice to any other rights or remedies which the parties may have, either party may terminate this Agreement without liability to the other immediately on giving written notice to the other if:

- a party has a receiver, liquidator or administrator appointed, is the subject of bankruptcy proceedings, ceases to trade, passes a resolution for or is the subject of a winding up order (except for the purpose of a solvent amalgamation or reconstruction), makes any composition or arrangement with creditors or is unable to pay debt as and when they fall due; or
- a party commits a material breach of any of its obligations under this Agreement and (if such a breach is remediable) fails to remedy that breach within 30 days of that party being notified in writing of the breach.

Following termination of this Agreement for any reason the Adviser Firm:

- may be entitled to access to the Platform for the sole purpose of accessing its Client Portfolios to ensure an orderly transition of services;
- shall not be entitled to add new Clients using the System;
- shall not be entitled to add new Assets to any Client Portfolio (other than through the trading of existing Assets);
- shall only be entitled to regular fee payments relating to the Service that fall due up to a period of six (6) months following termination of this Agreement, subject to compliance with Applicable Law; and
- shall enter into such agreement as Nucleus may reasonably require in connection with the provision of any continued access to the Platform.

Both Nucleus and the Adviser Firm shall work together to ensure that Clients are not negatively impacted.

11. Limitation of Liability

The Adviser Firm shall be responsible for the acts and/or omissions of its employees, servants, agents, nominees, Advisers and Users in all dealings with Nucleus and will remain responsible for such acts and/or omissions following termination of this Agreement.

Nucleus shall use reasonable skill and care in its provision of the Service subject to Nucleus' obligations as a company authorised and regulated by the FCA, and as otherwise provided in this Agreement.

Nucleus will not be liable to the Adviser Firm or to any other person for any losses which may be suffered or incurred as a result of Nucleus giving effect to any instruction which it reasonably believes to have been provided by the Adviser Firm.

Nothing in this Agreement will exclude, restrict or limit either party's liability for death, personal injury, fraud or fraudulent misrepresentation committed by that party (or its officers, agents or employees) or any other liability which cannot be limited or excluded by law.

Subject to the previous 2 paragraphs, Nucleus' entire liability under this Agreement for any cause of action arising in any calendar year related to the Services shall be limited to an amount equal to the fees paid to the Adviser Firm in the calendar year in which the cause of action arose and for the first year of this Agreement, the fees paid up until the date of any claim against Nucleus.

For the avoidance of doubt, Nucleus does not give any warranty and will not accept any liability regarding the suitability for any Client of any of the Assets, tools, services and functionality available through the Platform. Nucleus continues to refine the Assets, tools and services and functionality available through the Platform and Wrapstore and reserves the right to issue specific terms for any of these matters where it considers it appropriate to do so.

Neither Nucleus nor the Adviser Firm shall be liable to the other, whether in contract, tort (including negligence) or otherwise, for loss of profits, business interruption, loss of anticipated savings, any special, indirect or consequential loss or damages, any loss, corruption or destruction of data, or loss of goodwill or business opportunity.

12. Data protection

The Adviser Firm acknowledges that it is a Data Controller in relation to the services that it provides to its Clients (including without limitation acting on behalf of its Clients in relation to the Platform). The Adviser Firm warrants and undertakes that:

- it has in place all necessary notifications in respect of its Processing of Personal Data as required by Data Protection Legislation, as amended from time to time;
- it has a lawful basis to provide Nucleus with (i) Personal Data for the Permitted Purpose (as defined below); and (ii) Personal Data relating to Advisers and Users for the purposes of Nucleus providing and administering the Services and performing its obligations under this Agreement; and
- it shall otherwise comply with its obligations under Data Protection Legislation.

The Adviser Firm acknowledges that Nucleus will be a Data Controller in respect of the information or data provided to it for the purposes of providing the Service and any additional features and shall be entitled to permit the relevant Adviser Firm to view, create and amend Client records, to view and create Asset transactions and disclose such information or data in accordance with the Service from time to time and to carry out its obligations under any contract entered into either by or on behalf of the Client. Transfers of Client Personal Data between Nucleus and the Adviser Firm shall be on a Data Controller to Data Controller basis. The purposes for which Nucleus may use and disclose such information or data are set out in the Nucleus Privacy Notice and shall include, without limitation, permitting the relevant Adviser Firm to view, create and amend Client records, to view and create Asset transactions and conducting market research, preparing strategic or other marketing plans and exchanging information with another contracting party (for any such party's legitimate purposes or use), including sharing Client data with third parties where instructed by a User, a Client or the Adviser Firm (where the Adviser Firm confirms that it has Client authority to do so) (the "Permitted Purpose").

The Adviser Firm shall promptly, inform Nucleus of any accidental or unlawful destruction, loss, alteration, unauthorised disclosure of or access to, Personal Data relating to this Agreement (a "Personal Data Breach"). At its own expense, the Adviser Firm shall provide Nucleus with such information as Nucleus may reasonably require in relation to the Personal Data Breach and thereafter cooperate with Nucleus in investigating and mitigating the effects of the Personal Data Breach.

Wrapstore® enables Adviser Firms to access certain products or services made available by third parties. Where an Adviser Firm accesses products or services which are made available through Wrapstore®, the Adviser Firm acknowledges that the Processing of any Personal Data in relation to those products or services shall be governed by the provisions applying to the use of those products or services.

12. Data protection

Information about the Adviser Firm, its conduct, any Applications or transactions with Nucleus shall be processed as a Data Controller, in accordance with the purposes described above and as further described in the Nucleus Privacy Notice. The Adviser Firm acknowledges that it is responsible for ensuring that its Clients, Advisers and Users are made aware of the Nucleus Privacy Notice and undertakes to promptly make such individuals aware of any updates made to the Nucleus Privacy Notice from time to time.

The Adviser Firm undertakes to provide Nucleus with all reasonable assistance and information required from time to time by Nucleus in relation to any request received by Nucleus from a Client or other Data Subject under Data Protection Legislation, the Adviser Firm's performance of its obligations under this clause 12, or as otherwise reasonably required to enable Nucleus to comply with its obligations under Data Protection Legislation.

14. Advertising

The Adviser Firm shall provide Nucleus with copies of any literature, information or other documentation which it prepares referring to Nucleus, the Nucleus brand (or associated visual devices) or the Service prior to the publication or use of such literature, information or other documentation including if available electronically and Nucleus shall have the right to alter or amend any such references as appropriate in the context of the literature item(s). The Adviser Firm shall not use any literature item(s) which it prepares referring to Nucleus, the Nucleus brand (or associated visual devices) or the Service without the prior written consent of Nucleus.

13. Notices

All notices required under this Agreement shall be in writing and may be delivered as follows:

- If for the attention of Nucleus, by email to legal@nucleusfinancial.com or by hand or post to Legal Department, Nucleus HQ, Greenside, 12 Blenheim Place, Edinburgh, EH7 5JH ; or
- If for the Adviser Firm, to the Adviser Firm email address or postal address appearing in the TOB Form or to such other email or postal address as the Adviser Firm subsequently provides to Nucleus.

A notice shall be deemed to have been served:

- If sent by personal delivery, upon delivery at the address of the relevant party.
- If sent by recorded delivery, two clear Business Days after the date of posting.
- If sent by email, when sent (as long as no delivery failure message is returned).

15. VAT

Nucleus reserves the right to apply VAT on any fees or charges at any time should this be required under Nucleus' interpretation of the Applicable Laws and require the Adviser Firm, where appropriate, to make the required submissions in respect of any such VAT to HMRC as appropriate.

16. Variation

Nucleus reserves the right to vary the terms of this Agreement at any time. Save for changes to the Applicable Laws which require less than 30 days' notice, Nucleus will provide no less than 30 days' notice of changes to the Services or this Agreement. In cases where Nucleus deems it appropriate to make immediate changes to this Agreement to reflect changes to the Applicable Laws or to ensure Nucleus' continued compliance with the prevailing Applicable Laws, Nucleus reserves the right to make such changes without prior notice but Nucleus shall inform the Adviser Firm of such changes within 5 Business Days of such changes.

18. Waiver

No omission to exercise, or delay in exercising, on the part of Nucleus of any right, power or remedy provided by law or under this Agreement shall constitute a waiver of such right, power or remedy of any other right, power or remedy or impair such right, power or remedy. No single or partial exercise of any such right, power or remedy by Nucleus shall prejudice the exercise of any other right, power or remedy provided by law or under this Agreement.

Any waiver of any right, power or remedy under this Agreement must be in writing, must be expressly stated to be a waiver and must be communicated in accordance with the notice provisions of this Agreement and may be given subject to any conditions thought fit by Nucleus. Unless otherwise expressly stated any waiver shall be effective only in the instance and only for the purpose for which it is given and therefore shall not be construed as a waiver of Nucleus' rights or remedies with respect to any succeeding breach of the same or other provisions.

17. Assignment

The Adviser Firm may not assign, or transfer any rights and obligations imposed upon it under this Agreement without the prior written consent of Nucleus. For the avoidance of doubt, this includes instances where there is a change of control and/or change in ownership.

19. Confidentiality

Each party (a "recipient") shall keep in strict confidence all and not disclose any or permit the disclosure of any, technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to it by the other party (a "discloser") or its agents, and any other confidential information concerning the discloser's business or its products which the recipient may obtain in the course of this Agreement. The recipient shall restrict disclosure of such confidential material to such of its employees, agents or sub-contractors as need to know the same for the purpose of discharging its obligations under this Agreement, and shall ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality corresponding to those which bind each party.

20. Events outside a party's control

Neither party will be liable or responsible for any failure to perform, or delay in performance of, any of its obligations under this Agreement that is caused by events outside its reasonable control ("Force Majeure Event").

A Force Majeure Event includes any act, event, non-happening, omission or accident beyond a party's reasonable control and includes in particular (without limitation) the following:

- Strikes, lock-outs or other industrial action.
- Civil commotion, riot, invasion, terrorist attack or threat of terrorist attack, war (whether declared or not) or threat or preparation for war.
- Fire, explosion, storm, flood, earthquake, subsidence, epidemic or other natural disaster.
- Impossibility of the use of public or private telecommunications networks.
- The acts, decrees, legislation, regulations or restrictions of any government.
- Failure or suspension of the services provided by any bank, product provider or HMRC.

A party's performance under this Agreement is deemed to be suspended for the period that the Force Majeure Event continues, and the party the subject of the Force Majeure Event will have an extension of time for performance for the duration of that period. The party the subject of the Force Majeure Event will use its reasonable endeavours to bring the Force Majeure Event to a close or to find a solution by which its obligations under this Agreement may be performed despite the Force Majeure Event.

Nucleus will not be responsible or liable for any financial consequences which may arise from delays or transactional failures caused by a bank, product provider or HMRC.

21. Severability

If any provisions of this Agreement are determined by any competent authority to be invalid, unlawful or unenforceable to any extent, such term, condition or provision will to that extent be severed from the remaining terms, conditions and provisions which will continue to be valid to the fullest extent permitted by law.

22. Entire agreement

These terms of business represent the entire agreement between the parties in relation to the subject matter of this Agreement and supersede any prior agreement, understanding or arrangement between the parties, whether oral or in writing.

Each party acknowledges that, in entering into this Agreement, neither party has relied on any representation, undertaking or promise given by the other or be implied from anything said or written in negotiations between either party prior to entering this Agreement except as expressly stated in this Agreement.

Neither party shall have any remedy in respect of any untrue statement made by the other, whether orally or in writing, prior to the date of this Agreement (unless such untrue statement was made fraudulently) and the other party's only remedy shall be for breach of contract as provided in this Agreement.

23. Right of third parties

This Agreement is made for the benefit of the parties to it and (where applicable) their successors and permitted assignees, and is not intended to benefit, or be enforceable by, anyone else.

25. Governing Law

This Agreement any dispute or claim arising out of or in connection with is or its subject matter or formation (including non-contractual disputes or claims) is governed and construed in accordance with the laws of England and Wales and sets out the conditions upon which Nucleus will conduct business. Any dispute arising from, or related to, this Agreement and/or the Services shall be subject to the exclusive jurisdiction of the courts of England and Wales.

24. No partnership or agency

Nothing in this Agreement is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.



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www.nucleusfinancial.com