

Adviser portal terms and conditions.

1. Definitions and interpretation

The definitions and rules of interpretation set out in Schedule 1 apply in these terms and conditions (including any Schedules) ("**Conditions**").

2. Regulatory status

In operating the Adviser Portal and providing the Services, ColInvestor is acting as an intermediary between the Firm (and the Firm's Advisers and Investors) and the Managers. ColInvestor is authorised and regulated by the FCA to arrange deals in investments and make arrangements with a view to transactions in investments including arranging custodian, receiving agent and/or nominee services from an appropriately authorised third party.

3. Term and Agreement

- 3.1 Registration on the Adviser Portal constitutes an offer by the Firm to receive the Services from ColInvestor in accordance with these Conditions. The Firm is responsible for ensuring that all registration details provided by the Firm are complete and accurate.
- 3.2 This Agreement shall come into force and become binding on the parties on the date Commencement Date and shall continue for the Initial Term and thereafter this Agreement shall be automatically renewed for successive periods equal to the duration of the Initial Term (each a "**Renewal Period**"), unless:
- 3.2.1 either party notifies the other party in writing of termination, at least 60 days before the end of the Initial Term or any Renewal Period, in which case this Agreement shall terminate upon the expiry of the Initial Term or the relevant Renewal Period; or
- 3.2.2 it is otherwise terminated in accordance with the provisions of this Agreement, and the Initial Term together with any subsequent Renewal Periods shall constitute the "**Term**".
- 3.3 These Conditions apply to the Agreement between the Firm and ColInvestor to the exclusion of any other terms that the Firm seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. The Firm waives any right it might otherwise have to rely on any term endorsed upon, delivered with or contained in any documents of the Firm that is inconsistent with this Agreement.
- 3.4 Any demos, drawings, descriptive matter or advertising produced by ColInvestor and/or its affiliates are produced for the sole purpose of giving an approximate idea of the functionality of the Adviser Portal and/or the Services. They shall not form part of the Agreement nor have any contractual force.
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4. Services

- 4.1 ColInvestor shall make the Adviser Portal available for use by the Registered Users and shall, during the Term, provide the Services to the Firm on and subject to the terms of this Agreement.
- 4.2 ColInvestor shall grant access to the Firm's Registered Users to: (i) browse various Investment Opportunities listed by the Managers; (ii) submit applications to Invest; (iii) communicate with Investors and/or Managers in relation to Investment Opportunities, Investments and Other Relevant Investments; and (iv) receive relevant reporting information in relation to Investments and/or Other Relevant Investments, as submitted by the relevant Managers in connection with the administration of such investments and compliance with the Managers' reporting obligations.

- 4.3 The Firm acknowledges and agrees that:
- 4.3.1 the Adviser Portal is designed for use in the United Kingdom in relation to FCA regulated Investment Opportunities. Consequently: (i) the ability to make Investments by or on behalf of Investors based outside the UK may be restricted by ColInvestor and/or the relevant Manager(s); (ii) ColInvestor reserves the right to refuse to list and/or to remove an Investment Opportunity which is not subject to, and/or is not being made in compliance with, the FCA Rules; and (iii) those who use the Adviser Portal from outside the UK are responsible for compliance with all Applicable Laws;
 - 4.3.2 any Investment Opportunities and other Content made available via the Adviser Portal (including any Reporting Data) are provided on “as is” basis and (without prejudice to the generality of clause 13.1.2) ColInvestor makes no warranty or representation: (i) as to the availability of any specific Investment Opportunities and/or other Content; (ii) as to the accuracy and/or completeness of any Content; and/or (iii) that any information obtained by the Firm and/or any Registered User through the Adviser Portal will meet the Firm’s and/or Registered User’s requirements;
 - 4.3.3 ColInvestor’s role is limited to the conduit of the Content supplied by the Manager(s) and ColInvestor (and/or its officers, employees and/or affiliates, including any custodian and/or receiving agent appointed by ColInvestor) do not and will not: (i) provide any advice and/or recommendation in respect of any matters referred to in such Content; (ii) review the accuracy and/or completeness of any Content; (iii) review or conduct any assessment of suitability of any particular Investment Opportunity for any Investor, (notwithstanding that the Adviser Portal may include a questionnaire enabling the Firm and/or its Advisers to conduct such an assessment based on the information supplied by the relevant Investors); (iv) carry out any due diligence in respect of any Investment Opportunities; (v) become a party to any agreements between the Firm and/or Investors and any Managers in respect of any Investment Opportunities; and/or (vi) complete any tax or other filings or formalities relating to any Investments; and
 - 4.3.4 the Firm and its Registered Users shall be solely responsible for ensuring that all relevant information, documentation and applications in relation to any Investment Opportunity are submitted within the timeframes prescribed by the relevant Manager and/or ColInvestor in respect of such Investment Opportunity. Consequently, but subject to clause 13.2 (liability for death, personal injury or fraud), ColInvestor (and/or its officers, employees and/or affiliates, including any custodian and/or receiving agent appointed by ColInvestor, if applicable) do not accept any liability whatsoever and howsoever arising (including negligence) in relation to any missed and/or uncompleted Investment Opportunities, unless a failure to Invest is attributable solely to ColInvestor’s deliberate default or wilful misconduct.
- 4.4 Any Investments via the Adviser Portal shall be made in accordance with the terms set out in the documentation applicable to the relevant Investment Opportunity, as made available via the Adviser Portal or otherwise communicated by the relevant Manager.
- 4.5 The Firm agrees to provide (and procure that the relevant Investor provides), promptly upon request by ColInvestor or the relevant Manager, appropriate authorisation in writing in a form specified by ColInvestor or the relevant Manager, authorising such Manager to provide relevant Reporting Data in respect of such Investments and/or Other Relevant Investments.
- 4.6 ColInvestor shall have the right to reject any Firm Material for inclusion in the Adviser Portal, if, in ColInvestor’s reasonable opinion, such Firm Material does not comply with any Applicable Laws and/or could, in ColInvestor’s reasonable opinion, adversely affect ColInvestor’s reputation.
- 4.7 The Firm acknowledges and agrees that ColInvestor will have the right to put its copyright notices on the Adviser Portal, including a “**Powered by ColInvestor**” (or similar) credit, and the Firm shall not remove or otherwise interfere with any such notices and/or credit.
- 4.8 ColInvestor shall use reasonable endeavours to make the Adviser Portal available 24 hours a day, seven days a week, except for: (i) planned maintenance carried out during the maintenance window of 10.00 pm to 2.00 am UK time; and (ii) unscheduled maintenance performed outside Normal Business Hours, provided that ColInvestor has used reasonable endeavours to give the Firm at least 6 Normal Business Hours’ notice in advance.

- 4.9 The Firm acknowledges that the Adviser Portal and the Services are made available via the internet and as a result, the availability thereof may be subject to limitations, delays and other problems inherent in the use of such communications facilities. Consequently, the Firm acknowledges and agrees that ColInvestor: (i) does not warrant that the Registered User's use of the Adviser Portal will be uninterrupted or error-free; and (ii) is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet.
- 4.10 ColInvestor shall have the right to make any changes to the functionality of the Adviser Portal and/or to the Services from time to time: (i) to reflect any changes in the Manager's offering and/or their arrangements with ColInvestor; (ii) to address the Registered Users' needs; (iii) to comply with any Applicable Laws; and/or (iv) changes that do not materially affect the nature or quality of the Adviser Portal and/or the Services, including any updates, upgrades and new releases of the software underlying the Adviser Portal.
- 4.11 ColInvestor shall, as part of the Services and at no additional cost to the Firm, provide the Firm with ColInvestor's standard technical support services during Normal Business Hours in accordance with ColInvestor's standard support services. The Firm may purchase enhanced support services separately at ColInvestor's then current rates.
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5. Registered User Access

- 5.1 Subject to the Firm's compliance with clause 9.1 (payment of Charges), the restrictions set out in this clause 5 and the other terms and conditions of this Agreement, ColInvestor hereby grants to the Firm a non-exclusive, non-transferable right, without the right to grant sublicences, to permit the Registered Users during the Term to use the Adviser Portal and the Documentation.
- 5.2 In relation to the Registered Users, the Firm undertakes that:
- 5.2.1 it will use reasonable endeavours to ensure that (i) any Registered User Access is not used by more than one individual Registered User (unless a Registered User Access is re-assigned by ColInvestor to a different Registered User upon the Firm's request) and (ii) each Registered User shall use "two factor authentication" to sign in to the Adviser Portal and shall keep a secure password and other login information confidential;
- 5.2.2 it shall permit ColInvestor or ColInvestor's designated auditor (in each case, subject to ColInvestor and/or ColInvestor's auditor respecting unrelated confidential information of the Firm) to audit the use of the Adviser Portal in order to verify the Firm's compliance with this Agreement. Each such audit may be conducted no more than once per quarter, at ColInvestor's expense, and this right shall be exercised with reasonable prior notice, in such a manner as not to substantially interfere with the Firm's normal conduct of business; and
- 5.2.3 if any of the audits referred to in clause 5.2.2 reveal that any password has been provided to any individual who is not a Registered User (or to a number of individuals), then without prejudice to ColInvestor's other rights, ColInvestor may disable such Registered User Access.
- 5.3 The Firm shall not, and shall use reasonable endeavours to ensure that the Registered Users shall not, access, store, distribute or transmit any Viruses, or any material during the course of its use of the Adviser Portal that: (i) is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive; (ii) facilitates illegal activity; (iii) depicts sexually explicit images; (iv) promotes unlawful violence; (v) is discriminatory based on race, gender, colour, religious belief, sexual orientation, disability; or (vi) is otherwise illegal or causes damage or injury to any person or property, and ColInvestor reserves the right, without liability or prejudice to its other rights, to disable the Firm's and/or any Registered User Access to any material that breaches the provisions of this clause.

- 5.4 The Firm acknowledges and agrees that: (i) the access to and use of the Adviser Portal by the Registered Users shall be subject to the acceptance of the Registered User Terms and Conditions by such Registered Users; and (ii) the Registered User Terms and Conditions published on the Adviser Portal from time to time shall govern the relationship between ColInvestor and the Registered Users and that in the event of a material breach and/or persistent breaches of the Registered User Terms and Conditions by any Registered User, ColInvestor shall have the right, at its sole discretion, to suspend or withdraw the Registered User Access for any such Registered User.
- 5.5 The Firm shall not:
- 5.5.1 except as may be allowed by this Agreement and/or any Applicable Law which is incapable of exclusion by agreement between the parties and except to the extent expressly permitted under this Agreement: (i) attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Adviser Portal, the Documentation and/or any Content made available via the Adviser Portal (as applicable) in any form or media or by any means; or (ii) attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the software underlying the Adviser Portal;
 - 5.5.2 access all or any part of the Adviser Portal in order to build a product or service which competes with the Services;
 - 5.5.3 use the Services to provide services to third parties (other than its Investors);
 - 5.5.4 subject to clause 22 (Assignment), license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make any of the Services available to any third party except the Registered Users in accordance with this Agreement, or
 - 5.5.5 attempt to obtain, or assist third parties in obtaining, access to the Services, other than as provided under this clause 5.
- 5.6 The Firm shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Services and, in the event of any such unauthorised access or use, promptly notify ColInvestor.
- 5.7 The rights provided under this clause 5 are granted to the Firm only, and, unless otherwise agreed in writing between the parties, shall not be considered granted to any subsidiary or holding company of the Firm.
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6. ColInvestor's obligations

- 6.1 ColInvestor shall:
- 6.1.1 provide the Services in accordance with this Agreement in all material respects;
 - 6.1.2 perform the Services with reasonable care and skill; and
 - 6.1.3 comply with all Applicable Laws, including, for the avoidance of doubt, the FCA Rules, provided that ColInvestor shall not be liable under this Agreement if, as a result of such compliance, it is in breach of any of its obligations under this Agreement. If there is any change to any Applicable Laws and such change affects ColInvestor's ability to comply with the terms of the Agreement in any material respect, ColInvestor and the Firm shall negotiate in good faith appropriate changes to the affected provisions of the Agreement to the extent necessary to ensure that ColInvestor's performance of its obligations under the Agreement is in accordance with such Applicable Laws.
- 6.2 This Agreement shall not prevent ColInvestor from entering into similar agreements with third parties, or from independently developing, using, selling or licensing documentation, products and/or services which are similar to those provided under this Agreement.

7. Firm's obligations and warranties

7.1 The firm shall:

- 7.1.1 provide ColInvestor with all necessary co-operation in relation to this Agreement;
- 7.1.2 provide ColInvestor with all information, documentation and/or certification required by ColInvestor in order to provide the Services and/or comply with all Applicable Laws, including any Certificate of Verification of Identity prescribed by ColInvestor from time to time (including in an electronic format) and/or other information in respect of any "know your customer" and/or anti-money-laundering checks carried out by the Firm in relation to Investors (if any);
- 7.1.3 inform ColInvestor immediately in the event the Firm's authority to act on behalf of an Investor is terminated for any reason;
- 7.1.4 provide ColInvestor all Registered User Data and/or Firm Material required for the provision of the Adviser Portal and the Services in a timely manner and in the format reasonably required by ColInvestor;
- 7.1.5 be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to the Adviser Portal, and for all problems, conditions, delays, delivery failures and all other loss or damage arising from or relating to the Firm's network connections or telecommunications links or caused by the internet availability;
- 7.1.6 without affecting its other obligations under this Agreement, comply with all Applicable Laws and regulations with respect to its activities under this Agreement; and
- 7.1.7 obtain and maintain all necessary licences, consents, and permissions necessary in connection with this Agreement.

7.2 The Firm warrants that any content, information, materials, instructions or other items provided in connection with this Agreement (including any Registered User Data and Firm Material), shall: (i) to the best of its knowledge, be accurate and complete and suitable for the purpose for which they were provided or requested; and (ii) will not infringe any rights of any other person or any Applicable Law.

7.3 The Firm confirms, represents and warrants, on a continuous basis that:

- 7.3.1 it has FCA authorisation (or appropriate appointed representative status or is entitled to rely on an exemption from such authorisation) to provide independent financial advice to Investors and make Investments on behalf of Investors; and
- 7.3.2 it (and/or the relevant Adviser) has carried out an assessment (in accordance with the FCA Rules) and is satisfied that the relevant Investment Opportunity in which the Firm (and/or the relevant Adviser) is Investing on behalf of an Investor, is suitable and appropriate for the such Investor.

7.4 The Firm acknowledges and agrees that the Managers may rely on the assessment of suitability and appropriateness carried out by the Firm (and/or its Adviser(s)) in respect of such Manager's Investment Opportunities. The Firm shall, or shall procure that the relevant Adviser(s) shall, notify the relevant Manager(s) as soon as it/he/she becomes aware of any circumstances that could in any way affect such assessment.

7.5 The Firm (and/or the relevant Adviser) shall at all times have proper and valid authority to act on behalf of the Investors, including to select Investment Opportunities, Invest via the Adviser Portal on such Investors' behalf and to receive the Reporting Data in relation to the Investments and/or Other Relevant Investments. The Firm shall, upon request from ColInvestor, provide evidence of such authority to ColInvestor's reasonable satisfaction. In the event ColInvestor is not satisfied with the evidence of authority supplied by the Firm, ColInvestor shall be entitled to suspend or withdraw the Firm's ability to act on behalf of the relevant Investor(s) in the use of the Adviser Portal, including the receipt of any Reporting Data in relation to such Investments and/or Other Relevant Investments.

8. Additional Modules and/or Services

- 8.1 The Firm may, from time to time, request an Additional Module and/or Service.
 - 8.2 ColInvestor shall charge for any such Additional Module and/or Service in accordance with its Standard Rates.
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9. Charges and payment

- 9.1 In consideration for the provision of the Services, the Firm shall pay ColInvestor the Charges in accordance with this clause 9.
 - 9.2 ColInvestor shall calculate its Charges by reference to its Standard Rates.
 - 9.3 The Firm shall pay each invoice within 30 days after the date of receipt of such invoice.
 - 9.4 If ColInvestor has not received payment within 30 days after the due date, and without prejudice to any other rights and remedies of ColInvestor:
 - 9.4.1 ColInvestor may, without liability to the Firm, disable the Registered User Access to all or part of the Adviser Portal and ColInvestor shall be under no obligation to provide any or all of the Services while the invoice(s) concerned remain unpaid; and
 - 9.4.2 interest shall accrue on a daily basis on such due amounts at an annual rate equal to 3% over the then current base lending rate of the Bank of England from time to time, commencing on the due date and continuing until fully paid, whether before or after judgment.
 - 9.5 All amounts and fees stated or referred to in this Agreement: (i) shall be payable in pounds sterling; (ii) are non-cancellable and non-refundable; (iii) are exclusive of value added tax, which shall be added to ColInvestor's invoice(s) at the appropriate rate.
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10. Proprietary rights and data

- 10.1 Nothing in this Agreement shall affect the ownership of Intellectual Property Rights existing prior to the Commencement Date
- 10.2 The Firm shall have sole responsibility for the legality, reliability, integrity, accuracy and quality of the Registered User Data entered onto the Adviser Portal by the Nominated Users and shall on demand defend, indemnify and hold harmless ColInvestor against any claim, action, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) suffered by ColInvestor arising out of or in connection with the Firm's breach of this clause 10.2.
- 10.3 ColInvestor shall follow its archiving and back up procedures for all Registered User Data, in accordance with good industry practice. In the event of any loss or damage to Registered User Data, ColInvestor shall use reasonable commercial endeavours to restore the lost or damaged Registered User Data from the latest back-up of such Registered User Data maintained by ColInvestor.
- 10.4 In respect of any personal data comprised in the Registered User Data or any other data exchanged between the parties pursuant to this Agreement, each party shall comply with the applicable provisions of the Data Protection Schedule.
- 10.5 The Firm acknowledges and agrees that ColInvestor and/or its licensors own all Intellectual Property Rights in the Adviser Portal (other than any Firm Material published on the Adviser Portal pursuant to this Agreement), the Documentation, any Derived Data and/or the Services. Except as expressly stated herein, this Agreement does not grant the Firm any rights or licences in respect of the Adviser Portal, the Documentation and/or the Services.

- 10.6 As between ColInvestor and the Firm, the Firm and its licensors shall own and retain all right, title and interest in the Firm Material. The Firm hereby grants to ColInvestor a fully paid-up, worldwide, non-exclusive, royalty free, non-transferable licence to use, copy and modify the Firm Material to the extent necessary to provide the Services and/or in connection with ColInvestor's regulatory obligations.
- 10.7 ColInvestor confirms that it has all the rights in relation to the Services, the Documentation and/or the Content that are necessary to grant all the rights it purports to grant under, and in accordance with, the terms of this Agreement..
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11. Confidentiality

- 11.1 Each party agrees, during the Term and thereafter, to keep confidential, and not to use for its own purposes (other than implementation of this Agreement) nor without the prior written consent of the other to disclose to any third party (except its professional advisors under obligations of confidentiality) any information of a confidential nature (including trade secrets and information of commercial value) which may become known to such party from the other party and which relates to the other party or any of its customers, suppliers or other trading partners. Without limiting the generality of this clause: (i) the technology of the Adviser Portal, the Documentation and the Services shall constitute confidential information of ColInvestor; and (ii) the terms of this Agreement shall constitute confidential information of each party.
- 11.2 The restrictions at clause 11.1 shall not apply to the extent that: (i) such information is public knowledge or already known to such party at the time of disclosure, or subsequently becomes public knowledge, in each case other than by breach of this Agreement; or (ii) subsequently comes lawfully into the possession of such party from a third party; or (iii) such information is required to be disclosed by law or competent authority.
- 11.3 Neither party shall be responsible for any loss, destruction, alteration or disclosure of confidential information caused by any third party.
- 11.4 ColInvestor may use the Firm's name and logo to designate the Firm as a user of the Platform in its publicity and/or advertising material, including on any website operated by ColInvestor.
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12. Indemnity

- 12.1 The Firm shall on demand defend, indemnify and hold harmless ColInvestor against any claim, action, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with:
- 12.1.1 any claim that the use of the Firm Material in accordance with this Agreement infringes any third party Intellectual Property Rights or other rights of third parties;
 - 12.1.2 any act or omission of the Firm in breach of any of its warranties in clause 7.2 (information provided by the Firm) and/or clause 7.3 (Regulatory warranties);
 - 12.1.3 any claim by any Investor made in connection with any advice received by such Investor from the Firm and/or any of its Advisers, and/or in connection with any Investments made by the Firm and/or any of its Advisers on behalf of such Investor; and/or
 - 12.1.4 any breach by the Firm of any Applicable Laws, provided that: (i) the Firm is given prompt notice of any such claim; (ii) ColInvestor provides reasonable co-operation to the Firm in the defence and settlement of such claim, at the Firm's expense; and (iii) the Firm is given sole authority to defend or settle the claim.

- 12.2 ColInvestor shall on demand defend the Firm against any claim that the use of the Adviser Portal in accordance with this Agreement infringes any United Kingdom Intellectual Property Rights, and shall indemnify the Firm for any amounts awarded against the Firm in judgment or settlement of such claims, provided that: (i) ColInvestor is given prompt notice of any such claim; (ii) the Firm provides reasonable co operation to ColInvestor in the defence and settlement of such claim, at ColInvestor's expense; and (iii) ColInvestor is given sole authority to defend or settle the claim.
- 12.3 In the defence or settlement of any claim referred to in clause 12.2, ColInvestor may procure the right for the Firm and its Registered Users to continue using the Adviser Portal, replace or modify the Services so that they become non-infringing or, if such remedies are not in ColInvestor's reasonable opinion available, terminate this Agreement on not less than two Business Days' notice to the Firm without any liability or additional costs to the Firm.
- 12.4 In no event shall ColInvestor, its employees, agents and sub-contractors be liable to the Firm under clause 12.2 or otherwise to the extent that the alleged infringement is based on: (i) a modification of the Services by anyone other than ColInvestor; or (ii) the Firm's (or its Registered Users') use of the Adviser Portal and/or the Services in a manner contrary to the instructions given to the Firm by ColInvestor (including in any Documentation); or (iii) the Firm's (or its Registered Users') use of the Adviser Portal and/or the Services after notice of the alleged or actual infringement from ColInvestor or any appropriate authority.
- 12.5 Clauses 12.2 to 12.4 state the Firm's sole and exclusive rights and remedies, and ColInvestor's (including ColInvestor's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any Intellectual Property Rights.
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13. Limitation of liability

- 13.1 Except as expressly and specifically provided in this Agreement:
- 12.1.1 the Firm assumes sole responsibility for results obtained from the use of the Services and the Documentation by the Firm and/or its Registered Users, and for conclusions drawn from such use, whether by the Firm or by the Registered Users. ColInvestor shall have no liability for any damage caused by errors or omissions in any information, instructions or other materials provided to ColInvestor by the Firm (and/or any of its Registered Users) or any Manager in connection with the Services, or any actions taken by ColInvestor at the Firm's direction; and
- 12.1.2 the Services are provided to the Firm on an "as is" basis and all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by Applicable Law, excluded from this Agreement.
- 13.2 Nothing in this Agreement excludes the liability of ColInvestor: (i) for death or personal injury caused by ColInvestor's negligence; or (ii) for fraud or fraudulent misrepresentation.
- 13.3 Subject to clause 13.1 and clause 13.2:
- 13.3.1 neither party shall be liable to the other whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for: (i) any loss (whether direct or indirect) of profits, business, business opportunities, revenue, turnover, reputation or goodwill; (ii) any loss (whether direct or indirect) of anticipated savings or wasted expenditure (including management time); (iii) any loss or liability (whether direct or indirect) under or in relation to any other contract; (iv) any pure economic loss; and/or (v) any special, indirect or consequential loss; and
- 13.3.2 other than in respect of any Charges properly due under this Agreement and any indemnification obligations under this Agreement (which shall be unlimited), each party's total aggregate liability to the other party for any claim (or a series of connected claims) in contract, tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Agreement shall be limited to an amount equal to the total Charges paid and/or payable by the Firm during the 12 months immediately preceding the date on which the claim (or the first claim in a series of connected claims) arose.

14. Termination

- 14.1 Without affecting any other right or remedy available to it, either party may terminate this Agreement with immediate effect by giving written notice to the other party if:
- 14.1.1 the other party fails to pay any amount due under this Agreement on the due date for payment and remains in default not less than 14 days after being notified in writing to make such payment;
 - 14.1.2 the other party commits a material breach of any other term of this Agreement which breach is irremediable or (if such breach is remediable) fails to remedy that breach within a period of 30 days after being notified in writing to do so;
 - 14.1.3 the other party repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement;
 - 14.1.4 the other party (or the terminating party) ceases to be authorised by the FCA; or
 - 14.1.5 the other party is affected by an Insolvency Event.
- 14.2 On termination of this Agreement for any reason:
- 14.2.1 the right granted under clause 5.1 (right to permit Registered Users to use the Adviser Portal) of this Agreement and all other licences granted under or pursuant to this Agreement shall immediately terminate;
 - 14.2.2 subject to clause 14.3, all Registered User Access shall cease immediately;
 - 14.2.3 each party shall return and make no further use of any equipment, property, Documentation and other items (and all copies of them) belonging to the other party and all confidential information of the other party shall be, at the order of that other party, returned or destroyed, unless retention of any such item is required under the Applicable Laws;
 - 14.2.4 any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the agreement which existed at or before the date of termination shall not be affected or prejudiced;
 - 14.2.5 any provision of this Agreement which expressly or by implication is intended to come into or continue in force on or after termination of this Agreement (including, without limitation), clauses 9 (Charges and payment), 10 (Proprietary rights and data), 11 (Confidentiality), 12 (Indemnity), 13 (Limitation of liability), 14 (Termination), 18 (Waiver), 19 (Rights and remedies), 20 (Severance), 21 (Entire agreement), 23 (No partnership or agency), 24 (Third party rights), 25 (Notices), 26 (Dispute resolution), 27 (Governing law), 28 (Jurisdiction), Schedule 1 (Definitions and interpretation) and Schedule 2 (Data Protection Schedule) shall remain in full force and effect.
- 14.3 Nothing in this Agreement shall restrict or prevent ColInvestor from granting access to its ColInvestor Connect Platform to any Investor, whether during the Term of this Agreement or after termination thereof.

15. Professional client

- 15.1 ColInvestor shall treat the Firm rather than the underlying Investor as its client for the purposes of the FCA Rules, unless the underlying Investor is making non-advised Investments via the Adviser Portal.
- 15.2 ColInvestor has categorised the Firm as a “**professional client**” for the purposes of the FCA Rules.

16. Force majeure

ColInvestor shall have no liability to the Firm under this Agreement if it is prevented from or delayed in performing its obligations under this Agreement, or from carrying on its business, by acts, events, omissions or accidents beyond its reasonable control, including, without limitation, strikes, lock-outs or other industrial disputes (whether involving the workforce of ColInvestor or any other party), failure of a utility service or transport or telecommunications network, act of God, war, riot, civil commotion, malicious damage, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, fire, flood, storm or default of suppliers or sub-contractors, provided that the Firm is notified of such an event and its expected duration.

17. Variation

No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

18. Waiver

No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

19. Rights and remedies

Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

20. Severance

20.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement.

20.2 If any provision or part-provision of this Agreement is deemed deleted under clause 20.1 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.

21. Entire agreement

21.1 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

21.2 Each party acknowledges that in entering into this Agreement it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement.



- 21.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.
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22. Assignment

- 22.1 Save as provided in clause 22.2 and/or clause 22.3, neither party may subcontract, assign, transfer, novate, grant any trust over, or otherwise deal with any of its rights or obligations under this Agreement without the prior written consent of the other party, such request not to be unreasonably withheld or delayed.
- 22.2 Notwithstanding clause 22.1, either party may assign, transfer, novate, grant any trust over, or otherwise deal with its rights and obligations under this Agreement, in part or in full, without the prior written consent of the other party to an acquirer of assets or a successor by merger.
- 22.3 CoInvestor shall be entitled to subcontract its obligations under this Agreement (subject to the provisions of the Data Protection Schedule) to any third party or engage third-party agents or subcontractors without obtaining the Firm's prior consent.
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23. No partnership or agency

Nothing in this Agreement is intended to or shall operate to create a partnership between the parties, or authorise either party to act as agent for the other, and neither party shall have the authority to act in the name or on behalf of or otherwise to bind the other in any way (including, but not limited to, the making of any representation or warranty, the assumption of any obligation or liability and the exercise of any right or power).

24. Third party rights

This Agreement does not confer any rights on any person or party (other than the parties to this Agreement and, where applicable, their successors and permitted assigns) pursuant to the Contracts (Rights of Third Parties) Act 1999.

25. Notices

- 25.1 Any notice required to be given under this Agreement shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or recorded delivery post to the other party at its usual place of business, or such other address as may have been notified by that party for such purposes, or sent by email to the other party's email address as notified in writing by the other party from time to time.
- 25.2 A notice delivered by hand shall be deemed to have been received when delivered (or if delivery is not in business hours, at 9 am on the first Business Day following delivery). A correctly addressed notice sent by pre-paid first-class post or recorded delivery post shall be deemed to have been received at the time at which it would have been delivered in the normal course of post. A notice sent by email shall be deemed to have been received at the time of transmission.
- 25.3 The provisions of this clause shall not apply to the service of any proceedings or other documents in any legal action.

26. Dispute resolution

- 26.1 if any dispute arises in connection with this Agreement, each party shall appoint a representative duly authorised to enter into settle disputes and enter into legally binding agreements on behalf of such party ("**Representative**"). The Representatives of the parties will, within 14 days of a written request from one party to the other, meet in a good faith effort to resolve the dispute.
- 26.2 if the dispute is not wholly resolved at that meeting, the parties agree to enter into mediation in good faith to settle such a dispute and will do so in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties within 14 days of notice of the dispute, the mediator will be nominated by CEDR. To initiate the mediation a party must give notice in writing ("**ADR notice**") to the other party to the dispute, referring the dispute to mediation. A copy of the request should be sent to CEDR. Unless otherwise agreed, the mediation will start not later than 28 days after the date of the ADR notice.
- 26.3 The commencement of mediation will not prevent the parties commencing or continuing court proceedings.
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27. Governing law

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

28. Jurisdiction

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

Schedule 1: Definitions and interpretation

1. The definitions and rules of interpretation in this clause apply in this Agreement.

"Additional Module and/or Service" means any additional functionality module or service made available by ColInvestor via the Adviser Portal from time to time, and which may be requested by the Firm pursuant to clause 8 (Additional Modules and/or Services).

"Adviser" a member of the Firm's personnel authorised by the Firm to use and access the Adviser Portal to make Investments on behalf of Investors.

"Adviser Portal" means the online solution for financial advisers available at www.coinvestortechnologies.co.uk.

"Agreement" means the agreement between the Firm and ColInvestor for the supply of the Services in respect of the Adviser Portal on the terms set out in these Conditions.

"Applicable Laws" means any applicable laws or regulations, regulatory policies, guidelines or industry codes (including, but not limited to the FCA Rules).

"Business Day" means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business.

"Charges" means the fees and/or charges payable by the Firm under this Agreement in respect of the Services and/or an Additional Module and/or Service and calculated by reference to the Standard Rates.

"ColInvestor" means ColInvestor Limited, a company incorporated and registered in England and Wales with company number 07233697 and registered office at 1 Beer Cart Lane, Canterbury, Kent, United Kingdom CT1 2NY.

"ColInvestor Connect Platform" means an instance of ColInvestor's technology solution available to the general public at www.coinvestorconnect.co.uk or any other website and/or mobile application designated by ColInvestor from time to time.

"Conditions" means these terms and conditions.

"Content" means all resources, including text, information, data, images, audio or video material in whatever medium or form made available to the Registered Users from time to time through the Adviser Portal, including any information provided by a Manager in relation to the Investment Opportunities offered by such Manager, and/or any Reporting Data in respect of the Investments and/or Other Relevant Investments.

"Data Protection Legislation" means all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Regulations 2003 (SI 2003 No. 2426) as amended; any other applicable European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data; and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party.

"Data Protection Schedule" means Schedule 2 to these Conditions.

"Derived Data" means all text, information, data and/or other material, in whatever medium or form, generated by the Adviser Portal in relation to the Registered User's use of the Adviser Portal, including any aggregated and/or anonymised data collected or generated for analytics and/or statistical purposes.

"Documentation" means any document made available to the Firm and/or any Registered User by ColInvestor, whether online or by any other means and setting out the description and/or instructions of use of the Adviser Portal.

"FCA" means the Financial Conduct Authority or any successor regulatory body.

"FCA Rules" means the rules, guides and codes issued by the FCA from time to time.



"Firm" means the financial adviser, being a person or organisation that registers to use the Adviser Portal.

"Firm Material" means all materials, images and data supplied by the Firm to ColInvestor for inclusion in the Adviser Portal (including the Firm's logo and other branding in the event the Firm upgrades to a branded version of the Adviser Portal), and the database of Investors, supplied to ColInvestor in connection with the Services.

"Initial Term" means 12 months from the Commencement Date.

"Insolvency Event" in relation to either party, that party: (a) is unable to pay its debts or becomes insolvent or bankrupt; (b) is the subject of an order made or a resolution passed for its administration, winding-up or dissolution; (c) is subject to any proceedings for the appointment of an administrative or other receiver, manager, trustee, liquidator, administrator, or similar officer over all or any substantial part of its assets; (d) proposes or enters into any composition or arrangement with its creditors generally (except for the purposes of a bona fide solvent amalgamation, reconstruction or re-organisation (provided this does not materially reduce the assets of that party)); or (e) is subject to an analogous event to any of the foregoing in any jurisdiction.

"Intellectual Property Rights" means all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.

"Investment" means any participation by an Investor (whether directly or by an Adviser on behalf of such Investor) in an Investment Opportunity via the Adviser Portal, and **"Invest"**, **"Invested"** and **"Investing"** shall be construed accordingly.

"Investment Opportunity" means an opportunity to make an Investment listed on the Adviser Portal by a Manager, which may include single company investments, bonds, funds, portfolio services, non-mainstream pooled investment funds and/or non-readily realisable investments.

"Investor" means a client of the Firm, to whom the Firm may grant Registered User Access if such Additional Module and/or Service is activated for the Firm and/or on whose behalf the Firm's Adviser(s) may make Investments via the Adviser Portal.

"Manager" means a person who lists an Investment Opportunity on the Adviser Portal, or a person not participating in the Adviser Portal, but who manages Other Relevant Investments.

"Nominated User" means: (i) an Adviser; or (ii) a member of the Firm's personnel authorised by the Firm to use and access the Adviser Portal for administrative purposes including to administer Registered User Access to Investors (if applicable) and Advisers.

"Normal Business Hours" means 8.00 am to 6.00 pm local UK time, each Business Day.

"Other Relevant Investment(s)" means any investment (other than an Investment) in respect of which ColInvestor has been instructed by the Firm to provide reporting and/or other Services, and in respect of which the relevant Manager has agreed to release the required data to ColInvestor and/or to otherwise supply it via ColInvestor technology.

"Registered User" means a Nominated User or an Investor (if applicable), who received Registered User Access from the Firm.

"Registered User Access" means the right of a Registered User to access and use the Adviser Portal and the Documentation;

"Registered User Data" means the data inputted by the Firm, Registered Users, or ColInvestor on the Firm's behalf for the purpose of facilitating the Registered User Access.



“Registered User Terms and Conditions” means the terms and conditions of use of the Adviser Portal by the Registered Users as published on the Adviser Portal are made available to the Registered Users, including any policies, such as ColInvestor Privacy Policy (as defined in the Data Protection Schedule).

“Renewal Period” means the period described in clause 3.2 (Term and Agreement).

“Reporting Data” means any data and information relating to the Investments and/or any Other Relevant Investments, including in relation to the performance of such investments, as supplied to ColInvestor by the relevant Manager(s).

“Services” means the services provided by ColInvestor to the Firm under this Agreement in respect of the Adviser Portal, including the Documentation and the Content made available through or in connection with the Adviser Portal, and any Additional Module and/or Service that may be requested by the Firm from time to time.

“Standard Rates” means the Charges payable by the Firm in respect of the Services under this Agreement.

“Registered User Data” means the data inputted by the Firm, Registered Users, or ColInvestor on the Firm's behalf for the purpose of facilitating the Registered User Access.

“Term” has the meaning given in clause 3.2 (Term and Agreement), being the Initial Term together with any subsequent Renewal Periods.

“Virus” means any thing or device (including any software, code, file or programme) which may: prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device; prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data (whether by re-arranging, altering or erasing the program or data in whole or part or otherwise); or adversely affect the user experience, including worms, trojan horses, viruses and other similar things or devices.

2. A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality)

3. A reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted.

4. Any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

5. reference to writing or written includes email but not fax.

6. unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular.

Schedule 1: Data Protection Schedule

1. The following additional definitions apply in this Data Protection Schedule:

"ColInvestor Privacy Policy" means ColInvestor's privacy policy accessible at www.coinvestortechnologies.co.uk/privacy-policy as amended from time to time;

"Adviser" a member of the Firm's personnel authorised by the Firm to use and access the Adviser Portal to make Investments on behalf of Investors.

"data controller", "data processor", "data subject", "personal data", "processing" and "appropriate technical and organisational measures" and **"supervisory authority"** shall have the meanings given to them in the Data Protection Legislation;

"Personal Data Breach" a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Shared Personal Data;

"Platform(s)" any online investment platform operated by ColInvestor in the UK: (i) enabling advised and direct investors to access Investment Opportunities (including the Adviser Portal and the ColInvestor Connect Platform); and/or (ii) used by fund managers or financial advisers in the operation of their businesses;

"Purpose" means the operation of the Platforms and the supply and receipt of the Services (as appropriate);

"Shared Personal Data" the personal data to be shared between the parties in connection with the Services, including personal data relating to Investors; from time to time.

2. The provisions of this Data Protection Schedule shall take precedence over any conflicting or inconsistent provisions of the Conditions.

3. ColInvestor shall, in providing the Services, comply with its ColInvestor Privacy Policy relating to the privacy and security of the Registered User Data.

4. The parties acknowledge that each party shall be a data controller in respect of the Shared Personal Data exchanged between the parties in connection with the Services, as each party will independently determine the purposes for which and the manner in which it will process such Shared Personal Data received from the other party, including in connection with such party's own regulatory obligations under the FCA Rules and other Applicable Laws.

5. This Data Protection Schedule sets out the framework for the sharing of all Shared Personal Data between the parties in connection with the Purpose, to ensure the security of the Shared Personal Data and that the rights of data subjects are adequately protected.

6. Each party acknowledges that the other party may process any Shared Personal Data outside of the Purpose, as the other party may have its own contractual and/or regulatory obligations requiring the processing of the Shared Personal Data, including, but not limited to, the Adviser's obligations towards its Investors and the FCA, ColInvestor's obligations towards the Managers, the Investors and/or the FCA, whether in the context of the Adviser Portal or in the context of any other Platforms.

7. General compliance obligations

- 7.1 Each party will comply with all applicable requirements of the Data Protection Legislation. This paragraph 7.1 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 7.2 Each party shall ensure that:
- 7.2.1 it has legitimate grounds under the Data Protection Legislation for the processing of the Shared Personal Data;
 - 7.2.2 it shares with the other party only such personal data as is necessary in connection with the Purpose;
 - 7.2.3 it provides appropriate information to the data subjects of the Shared Personal Data, in accordance with the Data Protection Legislation, including that the Shared Personal Data will be transferred to the other party;
 - 7.2.4 it has in place, throughout the Term of the Agreement, appropriate technical and organisational measures to: (a) prevent a Personal Data Breach; and (b) ensure a level of security appropriate to the harm that might result from such unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the Shared Personal Data to be protected;
 - 7.2.5 its staff members are appropriately trained to handle and process the Shared Personal Data in accordance with the technical and organisational security measures referred to above together with any other applicable national data protection laws and guidance and have entered into confidentiality agreements relating to the processing of personal data;
 - 7.2.6 it shall not transfer any Shared Personal Data outside the EEA (and outside the UK, in the event the UK is no longer part of the EEA), unless: (i) the transfer is to a country approved by the European Commission as providing adequate protection pursuant to Article 45 of the GDPR; (ii) there are appropriate safeguards in place pursuant to Article 46 of the GDPR; or (iii) one of the derogations for specific situations in Article 49 of the GDPR applies to the transfer;
 - 7.2.7 in the event it engages a third party processor to process the Shared Personal Data, it has appropriate data processing agreement in place with any such third party processor, as required to comply with Article 28 and Article 30 of the GDPR;
 - 7.2.8 it uses reasonable endeavours to ensure that before it shares any Shared Personal Data the other party, such Shared Personal Data is accurate and up to date; and
 - 7.2.9 only provide the Shared Personal Data to the other party by using secure methods agreed by the parties from time to time (including via the Adviser Portal).
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8. Co-operation and assistance

- 8.1 ColInvestor shall provide reasonable assistance to the Firm in connection with any data protection impact assessments and prior consultations with the relevant supervisory authority which the Firm reasonably considers to be required by the applicable Data Protection Legislation, in each case solely in relation to the Shared Personal Data processed in connection with the Services and taking into account the nature of the relevant processing activity and information available to ColInvestor.

- 8.2 Each party shall ensure that:
- 8.2.1 promptly notify the other party in writing (within at least two working days) if it receives:
- (a) a request from a data subject to have access to his or her Shared Personal Data or to exercise any of his or her rights under Articles 15-22 of the GDPR, but only if such request concerns or affects the other party (in the receiving party's reasonable opinion); or
 - (b) a complaint or request relating to the other party's obligations under the Data Protection Legislation; and
- 8.2.1 provide the other party with full co-operation and assistance in relation to any such complaint or request made.
- 8.3 Each party shall notify the other party without undue delay after any Personal Data Breach occurs and in any event no later than 12 (twelve) hours after the breach has occurred, and shall include in that notification a full description of:
- (a) the nature of the Personal Data Breach including details of the Shared Personal Data and data subjects affected;
 - (b) the likely consequences of the breach; and
 - (c) the measures taken or proposed to be taken by the affected party to address the breach, including, where appropriate, measures to mitigate its possible adverse effects.
- 8.4 the parties agree to provide reasonable assistance as is necessary to each other to facilitate the handling of any Personal Data Breach in an expeditious and compliant manner.
- 8.5 In the event of a dispute or claim brought by a data subject or the relevant supervisory authority concerning the processing of Shared Personal Data against either or both parties, the parties will inform each other about any such disputes or claims, and will cooperate with a view to settling them amicably in a timely fashion.
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9. Transfer or destruction of Shared Personal Data

- 9.1 ColInvestor agrees that in the event of termination of the Agreement, termination of the Services and/or upon a reasonable written request from the Firm, ColInvestor shall (as the Firm may elect in writing):
- 9.1.1 enable the Firm to access, or transfer a copy of, all Shared Personal Data held by ColInvestor in relation to the Services in a format reasonably requested by the Firm; and/or
- 9.1.2 unless required to retain the information by any Applicable Laws or in connection with its role as a data controller in respect of the same set of personal data, ColInvestor shall destroy all such Shared Personal Data using a secure method which ensures that it cannot be accessed by any third party and shall, upon written request by the Firm, provide the Firm with a written confirmation of secure disposal.

10. Indemnity

- 10.1 each party (the “**indemnifying party**”) shall indemnify the other party (the “**indemnified party**”) on demand and hold the indemnified party harmless from any cost, charge, damages, expense or loss arising out of or in connection with any claim made against the indemnified party as a result of the indemnifying party’s breach of any of the provisions of this Data Protection Schedule, except to the extent that any such liability is excluded or limited under clause 13 (Limitation of liability) of the Conditions.
- 10.2 Indemnification under paragraph 10.1 of this Data Protection Schedule is contingent upon: (i) the indemnified party promptly notifying the indemnifying party of a claim or complaint; (ii) the indemnifying party having sole control of the defence and settlement of any such claim; and (iii) the indemnified party providing reasonable co-operation and assistance to the indemnifying party in defence of such claim.
- 10.3 The total aggregate liability of each party under the indemnity in this paragraph 10 shall in no event exceed £1 million.

Version: 19th March 2019

ColInvestor Limited