

Adviser Agreement with Cofunds

Our commitment to service excellence

This agreement is made between

- (1) COFUNDS LIMITED whose registered office in the United Kingdom is at 1st Floor, 1 Minster Court, Mincing Lane, London EC3R 7AA ("Cofunds"); and
- (2) The financial adviser whose details are given in the Data Form ("the Adviser").

Background

- (A) Cofunds is a company whose principal business is the development, operation and administration services of an independent platform for advisers to deal in Investments.
- (B) Cofunds is authorised and regulated by the Financial Services Authority to carry out this activity; and is approved by HM Revenue & Customs to provide ISAs.
- (C) The Adviser is authorised and regulated by the Financial Services Authority.

Now it is agreed as follows:

1. Definitions

- 1.1 In this Agreement, the definitions set out in Schedule 1 shall apply unless the context otherwise requires.
- 1.2 References to the Act include any regulation made under it.
- 1.3 References to any self-regulating organisation and rules made by it shall include its successor as regulator and rules made by the successor in substitution for those rules. References to any rules by number will include references to the corresponding rules (if any) made by the successor.
- 1.4 Subject to the definition of "the Act", references to any statute, statutory instrument, regulations or set of rules shall be references to such statute, statutory instrument, regulations or set of rules as from time to time amended, re-enacted or replaced and to any codification, consolidation, re-enactment or substitution thereof as from time to time in force.
- 1.5 The headings in this Agreement are for ease of reference only and shall not affect the construction or interpretation of this Agreement.
- 1.6 A reference to a Clause or Schedule is a reference to a Clause of or Schedule to this Agreement.

2. Provision of the platform

- 2.1 Cofunds agrees to provide the facilities of the Platform to the Adviser on the terms and conditions set out in this Agreement. In using the Platform, the Adviser will comply at all times with the procedures, requirements and restrictions set out in this Agreement and in the SLA.

- 2.2 The facilities of the Platform will be made available with effect from the date on which Cofunds notifies the Adviser that it has accepted the application by the Adviser to use the Platform.
- 2.3 All Intellectual Property whatsoever in the Platform and the Web Site, and related software, services and facilities provided pursuant to this Agreement, will remain the exclusive property of Cofunds and, where applicable, any third party licensing that Intellectual Property to Cofunds. No rights of any kind whatsoever are granted, licensed, transferred or shall otherwise pass to the Adviser pursuant to this Agreement, except the right to use the Platform as set out in this Agreement.

3. Operation of the fund market

A. Dealing

- 3.1 The Adviser may place Instructions using the facilities of the Platform.
- 3.2 The basis on which Cofunds acts on Instructions, including Dealing Cut-Off times, aggregation of orders, use of Nominee, cancellation rights and administration is set out in the SLA.
- 3.3 Except as otherwise agreed in writing, when executing transactions Cofunds shall treat the Adviser as its client for the purposes of the FSA Rules.

B. Reports and Valuations

- 3.3 Cofunds will make available to the Adviser reports and valuations of the type and frequency set out in the SLA. In addition, the Adviser may request a valuation for an individual Customer.
- 3.4 Cofunds will make available to the Customer reports and valuations of the type and frequency set out in the SLA.

C. Assessing suitability and appropriateness

- 3.5 Cofunds does not assess the suitability of the Investments that the Adviser deals in via the Platform and therefore the Adviser does not benefit from the protection of the FSA Rules on assessing suitability or appropriateness.

D. Restrictions on certain Investments

- 3.6 Certain funds and other Investments available through Cofunds impose conditions and other restrictions on investing in them. Each Customer who invests in such an Investment through Cofunds will be bound by the relevant conditions and restrictions.

The Adviser agrees to:

- (a) check for any such conditions or restrictions in the prospectus or other offering document for each Investment in which its Customers invest;
- (b) take all reasonable steps to confirm that the Customer is eligible to invest in the relevant Investment and can give such declarations and other confirmations as may be required in order to do so;
- (c) ensure that the requirements of paragraph (b) above continue to be satisfied for as long as each Customer continues to hold the relevant Investment; and

(d) obtain and retain such evidence as may be required in order to demonstrate that the above requirements are satisfied and provide access to or copies of such evidence to Cofunds upon request from time to time in relation to a particular Customer or Investment.

3.7 If Cofunds reasonably believes that a Customer has invested in an Investment in breach of applicable conditions and restrictions, Cofunds may without prior notice to the Adviser take such action as it reasonably considers appropriate (including, without limitation, selling the Investment and accounting for the net proceeds to the Customer) in order to put an end to and /or remedy the breach.

4. Provision of the website

4.1 Cofunds will make certain of the facilities of the Platform available to the Adviser through the Website. Access to the Website is subject to the relevant provisions of this Agreement and also to any terms of use published on the Website from time to time.

4.2 Cofunds will endeavour to make the Website available for access at all times, subject to scheduled overnight maintenance as provided in the Website terms of use. The Website may be taken off-line from time to time for additional maintenance and development work, but Cofunds will endeavour to ensure this takes place at periods of low usage outside normal business hours.

4.3 Cofunds will use reasonable endeavours to remedy any defect in or any interruption to the facilities provided through the Website.

4.4 The Adviser will inform Cofunds without delay if it or any of the Personnel becomes aware of any defect in the Website.

4.5 The minimum specifications for the equipment and software required to use the Website are contained in the terms of use of the Website. The Adviser will provide and maintain the Adviser Equipment at its own expense and will ensure that the Adviser Equipment complies at all times with those specifications.

4.6 The Adviser will only use the Website for the purpose for which it was designed and must refrain from any act or omission which may damage or impair the Website or may interfere with the use or availability of any facilities of the Website.

4.7 The Adviser may not:

(a) interfere or tamper with, alter, amend or modify the Website or any part of it;

(b) copy or disassemble any of the software comprised in the Website; or

(c) attempt to do any of the above or permit any of the above to be done,

in each case, except as necessary to use the Platform in accordance with the provisions of this Agreement or as expressly required or allowed by law.

4.8 Where the Adviser submits an Instruction via the Website, it will be deemed to warrant that it has obtained all necessary declarations and authorities from the Customer to enable it to do so.

5. Charges for use of the platform

5.1 Currently no fees or charges are payable to Cofunds by the Adviser for the day-to-day use of the Platform.

5.2 Cofunds reserves the right to introduce a fee or charges for the day-to-day use of the Platform.

5.3 Cofunds may provide special services at the request of the Adviser. Such special services will be charged for at a rate agreed between Cofunds and the Adviser.

6. Data Protection Act

6.1 Each party warrants to the other that in relation to this Agreement it has complied and will continue to comply with the provisions of the Data Protection Act 1998 and all relevant guidelines and guidance notes issued from time to time by the Information Commissioner (and any equivalent legislation in other relevant jurisdictions), and will not knowingly do anything or permit anything to be done which may lead to a breach of such provisions by the other party; and agrees to indemnify and keep indemnified the other against all and any loss, damage or liability which the other party may incur from any such breach.

6.2 Cofunds and the Nominee will store and use information about Customers as set out in the SLA. Each time the Adviser enters a Customer's details onto the Website or otherwise communicates personal information about a Customer to Cofunds on behalf of the Customer, the Adviser warrants that it is acting as the agent of the Customer and that the Customer consents to such storage and use of the information. It is the Adviser's responsibility to obtain authorisation from the Customer for the Adviser to act as the Customer's agent in this way.

6.3 Cofunds will provide information to each Product Provider from time to time about Investments of that Product Provider held through the Platform. However, any such disclosure will be made in a way that does not involve disclosure of Personal Information (as defined for the purposes of the Data Protection Act 1998) in relation to the holders of Investments, except as otherwise agreed with the Adviser or as required to enable Customers to receive information and exercise rights in relation to their Investments.

6.4 Cofunds may disclose information to each Product Provider from time to time concerning Instructions relating to Investments of that Product Provider transacted through the Platform. That information may include details of the Personnel responsible for those Instructions. If and to the extent that the consent of the Personnel concerned is required for the provision of that information, the Adviser will obtain that consent from the Personnel.

7. Anti-money laundering

7.1 Before giving Instructions or otherwise providing personal information about a Customer to Cofunds, the Adviser will follow appropriate procedures and will obtain sufficient identification and verification evidence about that Customer to comply with Applicable Regulation. Each time the Adviser gives Instructions regarding a Customer, it will be deemed to confirm that it has complied with this Clause in relation to that Customer.

- 7.2 Cofunds will not accept Instructions to Deal unless it is satisfied that appropriate checks have already been made on the identity of the Customer, or it has received evidence satisfactory to it of the identity of the Customer. Where these conditions are not met, Cofunds' acceptance of Instructions will be subject to satisfactory completion of Cofunds' own checks on the identity of the Customer.
- 7.3 If the Adviser wishes to arrange for Customers to submit Instructions, with the result that the Adviser will not be in a position to confirm the identity of each Customer to Cofunds, this will be subject to specific agreement in advance with Cofunds.

8. Communications, literature and documents to customers

- 8.1 Cofunds will normally send any communications, literature and documents intended for the Customer to the Customer with copies made available online for the Adviser.
- 8.2 Cofunds reserves the right to send any communications, literature or documents to and to communicate directly with the Customer where it is reasonable to do so; or where Cofunds is required to do so under Applicable Regulation or by any regulatory authority; or where Cofunds acts at the request of the Adviser or the Customer.

9. Administration of commission and fund charges

- 9.1 Cofunds may act as agent for the Product Providers in the payment of Commission to the Adviser save where Product Providers accept responsibility for payment of Commission direct to Advisers.
- 9.2 Where Cofunds acts as agent for the Product Providers in the payment of commission to the Adviser, Cofunds accepts no responsibility or liability resulting from the Product Providers ceasing to pay commission for any reason and Cofunds shall be under no obligation to fund commission payments in such circumstances.
- 9.3 Commission will be paid at the rates agreed between the Adviser and the Product Provider, subject to confirmation of the relevant rates by the Product Provider to Cofunds. Cofunds will not be responsible for making any enquiries as to special rates of Commission agreed between the Adviser and the Product Provider.
- 9.4 Where Cofunds rather than the Product Provider calculates the Commission, Cofunds will calculate the Commission (both initial and trail) due from the Product Provider to the Adviser on a regular periodic basis, based on the information provided to it by the Product Provider. Cofunds will provide statements to the Adviser showing a breakdown of transactions, holdings and amounts due.

10. Cash account

- 10.1 Cofunds shall establish a Cash Account in the name of the Customer(s) designed to allow Customer(s) to hold money destined for investment on the Cofunds Platform. The Cash Account may also be used to help facilitate the processing of Adviser Charges from Customer(s) to the Adviser. On each occasion before any ad-hoc Adviser Charges are deducted from the Cash Account the Adviser must provide Cofunds with the prior written consent of Customer(s) to any such deduction. In the case of ongoing Adviser Charges being deducted from the Cash Account, the Adviser must ensure they are in possession of, and can provide to Cofunds on request the prior written consent of the Customer(s) before the commencement (and any subsequent increase) of ongoing Adviser Charges.
- 10.2 The charges to be deducted shall be provided by the Adviser to Cofunds in the agreed format as specified by Cofunds from time to time.
- 10.3 Once the charge has left the Customer(s) account it will no longer be deemed to be client money and liability for failure in the payment being made correctly (whether or not this is due to any act or omission of the Adviser) will rest with Cofunds and not the Customer(s).
- 10.4 Upon instruction from the Customer(s) to Cofunds regarding the charge, Cofunds shall suspend all charges until notification from the Customer(s) has been received to continue such payments. Any Adviser Charges that are disputed and have been paid to the Adviser shall be clawed back by Cofunds by way of set-off under Clause 12 of the Adviser Agreement.
- 10.5 Where the Adviser instructs Cofunds to make a charge payment and there are insufficient monies in the Cash Account to do so, Cofunds shall not make any payment and outstanding payments shall accrue until such time as it is settled. Cofunds does not contract as principal and accepts no liability for ultimate settlement of transactions by or on behalf of Customers or payment of Adviser Charges (except as otherwise provided by Clause 10.3 above).

However, if the Customer has agreed a Sale for Regular Payment mandate with the Adviser, Cofunds may make a payment of Adviser charges from the Cash Account using the proceeds of a sale from the Customer's investments, as described in the Sale for Regular Payment Instruction form and in accordance with section 7 of the SLA.

The Adviser must ensure they are in possession of, and can provide to Cofunds on request, a signed Sale for Regular Payment Instruction from the Customer before the commencement of a Sale for Regular Payment.

- 10.6 In instances where a Customer uses a Pension Trading Account then Adviser Charges may be deducted from that account instead of the Cash Account. If that is the case then the procedures described in Clauses 10.1 to 10.5 of this Agreement will be followed except any reference to the Cash Account will be deemed to be a reference to the Pension Trading Account and the Adviser must also provide Cofunds with the Customer's prior written consent each time it wishes to arrange the deduction or increase of ongoing Adviser Charges from the Cofunds Pension Trading Account. For the avoidance of doubt, this paragraph does not permit Adviser Charges to be deducted from a Pension Trading Account in any case where the Customer is the Adviser or an employee or agent of the Adviser or any other person whom Cofunds considers is associated or connected with the Adviser.
- 10.7 Where a Customer holds any other product linked trading account that allows charges to be deducted and paid directly by Cofunds, then where Cofunds can facilitate this and the product provider allows, Adviser Charges may be deducted from that account instead of the Cash Account. If that is the case then, as with 10.6, the procedures described in clauses 10.1 to 10.5 of this Agreement will be followed except where any reference to the Cash Account will be deemed to be a reference to the product trading account and the Adviser must also provide Cofunds with the Customer's prior written consent each time it wishes to arrange the deduction or increase of ongoing Adviser Charges from the product trading account. However, the Sale for Regular Payment process referenced in clause 10.5 does not apply to pension products other than the Cofunds Pension Account.

11. Settlement

- 11.1 All Instructions under this Agreement are placed by Cofunds as agent for the Adviser and its Customer. Cofunds does not contract as principal, and accepts no ultimate liability for the settlement of transactions.
- 11.2 The Adviser will be responsible for transmitting to Cofunds settlement monies on behalf of its Customers in accordance with the provisions of the SLA.

12. Set-off

- 12.1 Where payment in respect of any Instruction to Deal fails, Cofunds will be entitled to sell the Investment and claw back the Commission and charges paid. The Adviser (and, where relevant, the Customer) will be responsible for payment of any loss or shortfall arising as a result of this sale transaction.
- 12.2 Where any amount is overdue from the Adviser, including any Commission that has been clawed back on cancellation or otherwise, Cofunds will be entitled to set off such amount(s) against any other amounts due or payable to the Adviser.

13. Services in relation to ISAs

- 13.1 Cofunds or some other duly authorised company nominated by it may act as an ISA manager for Customers wishing to invest through the Cofunds ISA in relation to such types of Investment as agreed between Cofunds and the Adviser from time to time.

14. Nominee

- 14.1 All Investments acquired through the Platform will be registered in the name of the Nominee. Where there are no other terms and conditions in place between the Customer and Cofunds setting out the basis on which Investments are held, those Investments will be held on the terms and conditions set out in Schedule 2.
- 14.2 The Adviser will inform its Customers of the fact that each Customer's holdings will be registered in the name of the Nominee.
- 14.3 Cofunds will maintain records of the beneficial owners of Investments held in the name of the Nominee.
- 14.4 The Nominee will not exercise any voting or other rights by virtue of its holding of Investments, except in accordance with the instructions of Customers who have elected to exercise those rights. For this purpose Cofunds may obtain Instructions from Customers in accordance with the procedure set out in the SLA.

15. Complaints by customers

- 15.1 Cofunds will co-operate to resolve any complaints by Customers or the Adviser in relation to the Investments or Product Providers, other than complaints about Investment selection or Investment performance.
- 15.2 Under normal circumstances complaints will be routed through the Adviser and Cofunds will not receive complaints directly from Customers, but Cofunds will deal with complaints from Customers or the Adviser regarding Cofunds' own services. The Adviser will co-operate to resolve any such complaint.

16. Change of nominated Adviser

- 16.1 Where a Customer dies or becomes uncontactable or where a Customer no longer wishes to use the services of the Adviser or where the Adviser is no longer willing and/or able to act for a Customer, the procedures set out in the SLA shall be followed in dealing with the Customer or, where applicable, his/her personal representatives.

17. Reconciliations

- 17.1 Cofunds will carry out reconciliations of its records of Customer holdings against records maintained by Product Providers. The Adviser will assist Cofunds where there is any query or discrepancy regarding any such reconciliation.
- 17.2 Where either party has a query regarding reconciliation of records relating to a Customer, the parties will co-operate to resolve it.

18. Representations, warranties and undertakings of the Adviser

- 18.1 The Adviser represents, warrants and undertakes as at the date of this Agreement and each subsequent placing of Instructions that:
- (a) the details of the Adviser set out in the Data Form are correct. Where possible the Adviser will give prior written notice to Cofunds of any change in that information and in any event will as soon as possible inform Cofunds in writing of such a change. The Adviser will provide Cofunds with such further information as Cofunds may reasonably require from time to time in relation to the Adviser, the Personnel and the use made of the Platform by the Adviser;
 - (b) it has all authorisations, licences, consents and permissions required by Applicable Regulation in order to perform its obligations under this Agreement including to carry on all insurance mediation activities carried on by it, or is an exempt person (under the Act) for that purpose; that it will remain so while this Agreement remains in force or that it will notify Cofunds immediately (with as much prior notice as is practicable in the circumstances) if this cases to be the case and that it will not knowingly carry on any insurance mediation activities in consequence of the activities of a third party operating in breach of the restriction under the Act on carrying on regulated activities without authorisation or equivalent legislation in another member state of the European Union;
 - (c) it has full capacity and authority and has obtained all necessary consents to enter into and perform this Agreement; that this Agreement has been executed by a duly authorised representative; and that entering into this Agreement will not cause the Adviser to be in breach of any obligation owed to any third party;
 - (d) it has sole responsibility for any facilities related to the Platform that it hosts on its website or that are provided to Customers independently of Cofunds save that Cofunds shall be responsible for any regulatory or technical content supplied by Cofunds in writing to the Adviser;
 - (e) it has obtained all necessary consents, permissions and authorisations from Customers to place Instructions in accordance with the terms of such Instructions;
 - (f) it has and hereby accepts full responsibility for the activities of each of the Personnel in relation to the Platform and will ensure that each of the Personnel:
 - (i) is aware of the duties and obligations of the Adviser under this Agreement and does not by any act or omission cause any breach of this Agreement by the Adviser;
 - (ii) has appropriate skills, expertise and training to use the Platform and to provide services to Customers through use of the Website (including, if so required by the SLA, any training provided by Cofunds which must be undertaken before a member of the Personnel is permitted to use the Website);
 - (iii) is notified to and registered with Cofunds in accordance with the SLA before being permitted to access any restricted area of the Website; and
 - (iv) uses the Platform and the Website exclusively under the identification issued to that member of Personnel by Cofunds or the Adviser; and keeps that identification secure and confidential preventing any other person from making use of it.
 - (g) it shall have no rights whatsoever and shall not seek to exercise any rights in relation to the Cofunds Cash Account or the Pension Trading Account except as authorised by the Customer(s); and
 - (h) it has full responsibility for obtaining instructions from Customer(s) having discussed and agreed with the Customer(s) the rights of the Adviser in respect of Adviser Charges and has obtained signed copies of such instructions and provided them to Cofunds as required prior to the Adviser giving instructions to Cofunds in relation to the Cofunds Cash Account or Pension Trading Account.
- 18.2 Except to the extent that the SLA provides that Cofunds will provide information direct to Customers, the requirement for the Adviser to provide information, both written and oral, and services to its Customers under Applicable Regulation in connection with advice given or transactions executed on behalf of Customers will at all times remain the responsibility of the Adviser.
- 18.3 The Adviser undertakes to comply with all Applicable Regulation to the extent relevant to the subject matter of this Agreement, which includes without limitation in connection with any transactions executed on behalf of Customers.
- 18.4 The Adviser undertakes to provide Cofunds promptly with Customer details in an accurate form and will notify Cofunds of any changes in Customer details in accordance with the SLA.
- 18.5 Should the Adviser ever request that Cofunds no longer sends communications to them by email then Cofunds shall be in no way responsible to the Adviser for any action taken or refrained from or any commercial opportunity the Adviser believes it may have missed as a consequence.

19. Confidentiality

- 19.1 Each party will keep confidential all Confidential Information relating to the affairs of the other party (including in relation to the Adviser, its Customers) which are received as a result of entering into this Agreement and the operation of the Platform, and will not disclose such Confidential Information to any other person, except that this Clause will not apply to disclosures of information in the following circumstances:
- (a) Where it was already in the possession of a party before it was received from the other party;
 - (b) Where it is in, or comes into, the public domain (otherwise than as a result of a breach of this Clause);

- (c) Where a party is required to disclose under Applicable Regulation or any court of competent jurisdiction;
 - (d) Where it is made in proper performance of a party's obligations under this Agreement (including the SLA); or
 - (e) Where consent is given by the other party or the Customer where Customer information is concerned.
- 19.2 Nothing in this Clause 19 shall prevent either party from disclosing Confidential Information to its professional advisers for the purposes of the performance of their professional obligations to that party provided that such professional advisers are made aware of the confidential nature of the Confidential Information and are governed by confidentiality obligations substantially the same as these obligations either pursuant to an engagement letter or their own professional duties.

20. Cofunds platform support

- 20.1 Cofunds will provide telephone helpline support to Advisers in relation to the Platform in accordance with the SLA.
- 20.2 Cofunds reserves the right:
- (a) to make improvements and other changes to the Platform from time to time;
 - (b) to restrict or deny access to the Platform by particular Personnel or to require the Adviser to do so; and
 - (c) to suspend the operation of the Platform at any time, if it reasonably considers it appropriate to do so (except in an emergency, Cofunds will give the Adviser prior notice of any proposed suspension).

21. Use of Cofunds name and logo

- 21.1 Subject to clause 21.3, Cofunds agrees that the Adviser may use the name "Cofunds" and Cofunds' logo in promotional literature, reports and other documentation relating to the activities under this Agreement. The Adviser will not make any representations on behalf of or purporting to emanate from Cofunds without Cofunds' approval. For the avoidance of doubt, the Adviser may only use Cofunds' name and logo in Adviser promotional literature in which the use of the Platform by the Adviser is correctly described. If Cofunds reasonably considers that the use of Cofunds' name and logo by the Adviser is improper or the Adviser's promotional literature does not correctly reflect the relationship between Cofunds and the Adviser, it may so notify the Adviser and the Adviser shall make such changes to its promotional literature as are reasonable in all the circumstances to meet Cofunds' concerns.
- 21.2 Except as authorised by this Agreement, the Adviser will not use or make use of the name "Cofunds" or any of Cofunds' trade marks, service marks, logos, designs or other proprietary designations or any colourable variation thereof, without first obtaining the written consent and approval of Cofunds..

- 21.3 Cofunds hereby grants the Adviser a non exclusive, non transferable and non assignable licence to use the name "Cofunds" and Cofunds' trade marks identified to it by Cofunds from time to time ("Marks") in promotional literature, reports and other documentation relating to the activities under this Agreement, such licence to continue for the term of this Agreement, PROVIDED THAT all use of the Marks is in accordance with Cofunds' reasonable requirements notified to the Adviser from time to time.
- 21.4 The Adviser acknowledges that Cofunds is and shall remain the sole owner or licensee of all the Marks; and that the Adviser shall not acquire any right or interest in any such Marks. All goodwill arising out of the Adviser' use of the Marks shall accrue to Cofunds and belong to Cofunds absolutely.
- 21.5 Upon the expiry or termination of this Agreement for any reason whatsoever the Adviser shall forthwith cease to make use of any of the Marks,
- 21.6 The Adviser shall not do anything which adversely affects the goodwill and reputation symbolised by the Marks or may lead to the revocation of any registration thereof. Cofunds' logo shall not be altered in any way by the Adviser, including but not limited to altering the colour, size or shape.
- 21.7 The Adviser shall ensure that the distinctiveness of the Marks is not impaired by its use thereof pursuant to this Agreement and the Adviser shall ensure that its use of the Marks is not likely to and does not cause confusion amongst consumers and the Adviser shall use appropriate trademark notices in relation to the Marks to denote that the same are owned by Cofunds and used by the Adviser under licence.

22. Delegation

- 22.1 Cofunds may delegate any of its powers and duties under this Agreement to a third party provided that:
- (a) the liability of Cofunds to the Adviser for all matters so delegated shall not be affected by the delegation;
 - (b) Cofunds may only provide information concerning the Adviser and its Customers which is necessary for the performance of the functions being delegated to any third party and subject to confidentiality obligations the same or substantially similar to those contained in Clause 19 of this Agreement and where necessary, (c) the third party is duly authorised under the Act.
 - (c) the third party is duly authorised under the Act.
- 22.2 Cofunds may employ suitable and properly qualified agents and professional advisers to perform any administrative or ancillary services required to enable Cofunds to perform its activities under this Agreement. Cofunds will act in good faith and with due diligence in the selection, use and monitoring of such agents and professional advisers.

23. Term and termination

- 23.1 Either party may terminate this Agreement at any time by giving the other party not less than three months written notice. The Adviser may terminate this Agreement with immediate effect by notice in writing to Cofunds if Cofunds makes an amendment to this Agreement or the Service Level Agreement to which Clause 27.3(b) applies and this amendment is not acceptable to the Adviser.
- 23.2 Notwithstanding Clause 22.1, either party may terminate this Agreement by notice in writing with immediate effect or on such later date as may be specified in such notice where:
- (a) any resolution is passed or order is made for the winding-up of the other party (while solvent) otherwise than for the purposes of amalgamation or reconstruction on terms acceptable to the former party;
 - (b) a receiver or administrative receiver is appointed over all or any material part of the assets of the other party or an administration order is made with regard to the other party or any arrangement or composition is made with the creditors of the other party;
 - (c) the other party ceases or threatens to cease to carry on business or to suspend payment of any of its debts or is deemed to be unable to pay its debts as and when they fall due; or
 - (d) the other party has its FSA authorisation or any other licence, registration, approval, authority or membership of any regulatory authority necessary for it to perform any of its obligations under this Agreement suspended, withdrawn or cancelled or otherwise ceases to be an exempt person under the Act; or
 - (e) the other party cannot perform all or substantially all of its obligations under this Agreement for a continuous period of 30 days because of Force Majeure.
- 23.3 Cofunds may either suspend the right of the Adviser or any of the Personnel to use the Platform or terminate this Agreement immediately by notice to the Adviser if:
- (a) the Adviser or any of the Personnel commits a serious breach of this Agreement;
 - (b) the Adviser or any of the Personnel commits a series of breaches of this Agreement;
 - (c) in the opinion of Cofunds, circumstances have arisen which could be prejudicial to or represent a threat to the security, integrity or reputation of the Platform or which could involve Cofunds in material expense or legal proceedings, not being proceedings solely between Cofunds and the Adviser arising out of this Agreement;
 - (d) in the opinion of Cofunds, the participation of the Adviser or any of the Personnel is disruptive to other users of the Platform;
 - (e) any of the events set out at (a)-(d) above is, in the opinion of Cofunds, likely to occur;
- (f) Cofunds reasonably believes that the Adviser or any of the Personnel is responsible for any act or omission not permitted by this Agreement which may pose a threat to the security of the Platform;
 - (g) the Adviser's account with Cofunds has been inactive for a period of at least twelve months;
 - (h) any agreement which affects the operation of this Agreement is terminated and as a result Cofunds is unable to provide the Platform or a replacement; or
 - (i) Cofunds is requested to do so by any regulatory body.
- 23.4 Any suspension pursuant to this Clause shall continue for as long as Cofunds considers appropriate and end on such date and on such conditions as Cofunds may decide. So long as Cofunds acts in good faith it may suspend the right of the Adviser to use the Platform even if the information upon which it based its decision subsequently turns out to be inaccurate.
- 23.5 Upon termination of this Agreement Cofunds will terminate the access of the Adviser to the Platform, and the Adviser undertakes that it will immediately cease to use the Platform.
- 23.6 Following termination, Cofunds will provide such assistance as the Adviser may reasonably require to enable it to transfer the provision of services previously supported on the Platform to a new system or provider and to export data relating to the affairs of the Adviser and its clients from the Platform in the format (if any) specified in the SLA for data export.
- 23.7 If the provision of this assistance will require Cofunds to incur costs and expenses of any kind, Cofunds will inform the Adviser of that fact and the Adviser will reimburse that expenditure against production of copy invoices or other supporting evidence.
- 23.8 Termination of this Agreement shall be without prejudice to the accrued rights of the parties at the date of such termination and shall not affect those provisions of this Agreement, which are intended to come into or continue in force on or after such termination.

24. Assignment and novation

- 24.1 This Agreement is personal to the Adviser. The Adviser may not assign, sub-license, transfer, charge or part with possession of any rights or obligations under it.
- 24.2 Cofunds may not assign the benefit of this Agreement to any other person save with the prior written consent of the Adviser except that Cofunds may without such consent assign its rights and obligations in whole or in part to any Affiliate (within the meaning of the FSA Rules) and may assign its right to receive any fee or commission to any third party.

25. Force majeure

- 25.1 Neither party to this Agreement shall be deemed to be in breach of this Agreement or otherwise liable to the other party in any manner whatsoever for any failure or delay in performing its obligations under this Agreement due to Force Majeure.
- 25.2 If a party's performance of any of its obligations under this Agreement is affected by Force Majeure:
- (a) it shall give notice to the other party, specifying the nature and extent of the Force Majeure, immediately on becoming aware of the Force Majeure and will at all times use all reasonable endeavours to mitigate the severity of the Force Majeure;
 - (b) the time for performance of such obligation shall be suspended for a period equal to the delay caused by such Force Majeure; and
 - (c) it shall not be entitled to payment from the other party in respect of extra costs and expenses incurred by virtue of the Force Majeure.

26. Notices

- 26.1 Unless otherwise agreed by separate arrangement between the parties, any notice to be given hereunder shall be in writing and may be served by facsimile, or by email, or by delivery or post to the registered office of the party for which it is intended, or, in the case of a notice from Cofunds to users of the Fund Market generally, by posting the notice on the Website. By entering into this Agreement the Adviser specifically consents to the provision of information via the Website.
- 26.2 A notice sent by facsimile shall be deemed to have been received upon transmission to the correct number with no indication of transmission failure or incomplete transmission.
- 26.3 A notice sent by e-mail shall be deemed to have been received upon transmission to the correct email address with no indication of delivery failure
- 26.4 A notice sent by post shall be deemed to be served at the expiration of 48 hours after posting and in proving service by post it shall be sufficient to prove that an envelope containing a notice was duly addressed, stamped and posted.
- 26.5 A notice delivered other than by post shall be deemed to have been received upon delivery to the correct address to a representative of the receiving party on the day it is received or if it is received outside of normal business hours (which for these purposes shall be 0900 to 1700) then on the next Business Day.
- 26.5 A notice posted on the Website shall be deemed to be served at the expiration of 48 hours after posting.

27. Amendments

- 27.1 The Adviser may from time to time notify Cofunds of any changes to the information set out in the Data Form and the Data Form will be deemed to be amended accordingly.
- 27.2 If and to the extent that any provision of this Agreement or the SLA conflicts with the requirements of the Applicable Regulation, then Cofunds may give notice to the Adviser in accordance with Clause 26 amending that provision in such manner as Cofunds considers appropriate to avoid the conflict.
- 27.3 This Agreement and the SLA may be amended by notice (given in accordance with Clause 26) from Cofunds to the Adviser at any time, provided that:
- (a) no such amendment will be retrospective in effect;
 - (b) any such amendment which in the reasonable opinion of Cofunds would or might be detrimental to the interests of the Adviser will be subject to Cofunds giving at least 10 Business Days notice before the amendment takes effect;
 - (c) any other amendment will be made on such period of notice as Cofunds may consider appropriate.
- 27.4 The Adviser and Cofunds will be bound by any amended SLA and/or Agreement from the date on which the Adviser gives Instructions for the first time after expiry of the notice.

28. Liability

- 28.1 The Adviser will indemnify Cofunds against any loss or damage suffered by Cofunds, or liability to any third party incurred by Cofunds, to the extent that such loss, damage or liability results from:
- (a) any breach or non performance by the Adviser of any of the terms and conditions of this Agreement or any Applicable Regulation; or
 - (b) the transmission or Introduction into the Website by any of the Personnel of any software which causes damage to the Website or data held by the Platform; (including, without limitation, the transmission or introduction of any software viruses).
- 28.2 Subject to 27.1 above, the Adviser will not be liable in respect of any indirect loss suffered by Cofunds (including loss of business, loss of profits, or damage to reputation) even if the loss is of a kind which is foreseeable or actually contemplated at the time when this Agreement is entered into.

28.3 Subject to Clause 27.4 below, Cofunds will not be under any liability to the Adviser, its Customers or any third party for any loss, damage or injury, direct or indirect, howsoever arising, under or in connection with this Agreement, except to the extent that Cofunds is prevented from excluding its liability by any Applicable Regulation..

28.4 Subject to Applicable Regulations, the extent of the liability of Cofunds to compensate the Adviser or any Customer for any loss, damage or injury caused by Cofunds (other than death or personal injury) will be limited as follows:

- (a) Cofunds will indemnify the Adviser and the Customer against any liability or loss suffered or incurred by the Adviser or the Customer (including any Investment loss or failure to secure investment gains) if and to the extent that this occurs as a direct result of any breach of duty or breach of this Agreement by Cofunds;
- (b) Cofunds will indemnify the Adviser and the Customer only if they have each taken reasonable steps to mitigate any liability or loss falling within (a) above;
- (c) subject to (a) above, Cofunds will not be liable in respect of any indirect economic loss suffered by the Adviser or the Customer (including loss of business, loss of profits, loss of or corruption to data or damage to reputation) even if the loss is of a kind which is foreseeable or actually contemplated at the time when this Agreement is entered into; and
- (d) the total liability of Cofunds (whether in contract, tort or otherwise) under or in connection with this Agreement or based on any claim for indemnity or contribution by the Adviser or any Customer will not exceed the sum of £100,000 in respect of any single incident or series of connected incidents, provided that no limit will apply in relation to any obligation to settle transactions entered into pursuant to this Agreement or to pay commissions due to be paid to the Adviser by Cofunds.

28.5 The Adviser acknowledges that computer software cannot be guaranteed error free and agrees that Cofunds will not be liable for any errors in any software provided to it by Cofunds pursuant to this Agreement.

29. Miscellaneous

- 29.1 Either party to this Agreement may record telephone conversations with the other. Each party will obtain such consents from its staff as may be necessary for this purpose.
- 29.2 This Agreement, including the Schedules and the SLA, comprises the entire agreement and understanding between the parties and supersedes all prior representations, discussions and agreements.
- 29.3 The parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it and no third party's consent is required for any variations.
- 29.4 Any failure to exercise or delay in exercising a right or remedy does not constitute a waiver of the right or remedy or a waiver of other rights or remedies. No single or partial exercise of a right or remedy prevents further exercise of the right or remedy or the

exercise of another right or remedy. No right or remedy conferred by this Agreement is intended to be exclusive of any other and every remedy shall be cumulative and in addition to every other remedy.

29.5 If any provision of this Agreement shall be held to be illegal, invalid or unenforceable, the legality, validity or enforceability of the remainder of this Agreement shall not be affected.

30. Non-exclusivity

30.1 Nothing in this Agreement prevents Cofunds or the Adviser from entering into arrangements similar to those provided for in this Agreement with any other person, firm or company.

31. Governing law

31.1 This Agreement shall be governed by, and construed in accordance with, English law.

31.2 The English court shall have exclusive jurisdiction to settle any disputes or claims which may arise out of or in connection with this Agreement, for which purpose all parties agree to submit to that jurisdiction.

Schedule 1

Definitions

In this Agreement, the following definitions shall apply unless the context otherwise requires.

Act means the Financial Services and Markets Act 2000;

Adviser means an authorised person under Part IV of the Financial Services and Markets Act 2000;

Adviser Charges means the cost of initial and/or ongoing advice and/or services provided by the Adviser as agreed in advance between the Customer(s) and the Adviser;

Adviser Equipment the computer equipment and software through which the Adviser uses the Platform;

Applicable Regulation means all UK laws, rules, regulations, statutes, instruments, guidance or codes of conduct (whether or not having force of law) which are relevant to the discharge by the Adviser and Cofunds of their respective obligations under this Agreement including, without limitation:

- (a) the rules and guidance made by the FSA under Part X of the Act (including the FSA Rules), or any other code of practice or guidance from any regulator or ombudsman with which any reputable financial institution in the United Kingdom is accustomed to comply;
- (b) the Act;
- (c) the Data Protection Act 1998 and all other laws in respect of the processing of personal data including the Privacy and Electronic Communications (EC Directive) Regulations 2003;

- (d) the Money Laundering Regulations 2007, Proceeds of Crime Act 2002 and the applicable parts of the guidance for the financial sector issued by the Joint Money Laundering Steering Group;
- (e) The Bribery Act 2011;
- (f) the rules and guidance of HM Revenue & Customs; and
- (g) (where applicable) such laws, rules, regulations, statutes, instruments, guidance or codes of conduct (whether or not having the force of law) in any jurisdiction other than the UK;

Available Balance means the balance in the Customer's Cash Account (or Trading Account for Pension Products or bonds) that can be used to trade on the Cofunds platform. If paying for a trade from the Cash/ Trading Account, the Available Balance will be reduced by that amount;

Business Day means any day when the London Stock Exchange is open for business;

Cash Account means the account Cofunds opens on behalf of Customers to hold Customer cash. The Customer is, and remains at all times, the legal owner of the money held in this account;

Cleared Balance means the Available Balance plus or minus any outstanding transactions that have been funded by the Cash Account/ Trading Account (i.e. transactions that have not yet been fully processed). Money can only be withdrawn or transferred to another account (e.g. a Customer's Nominated Bank Account) from the Cleared Balance.

Commission means commission payable to the Adviser at the rates and on the basis agreed between the Adviser and each Product Provider and/or fund manager from time to time;

Confidential Information means all information relating to the Platform and its functionality or to the affairs of Cofunds and its clients obtained by the Adviser from Cofunds or otherwise through the use of the Platform and all information of a confidential nature relating to the Adviser and its Customers obtained by Cofunds from the Adviser;

Customer means a customer of the Adviser;

Data Form means the Cofunds Adviser Data Requirements Form completed by the Adviser and supplied to Cofunds in connection with the conclusion of this Agreement;

Deal means to buy, sell, convert, switch or transfer Units in Investments;

Dealing Cut-Off time means the time by which an instruction needs to be received and accepted by Cofunds in order to be placed at the next Valuation Pricing Time;

Force Majeure means any cause preventing either party from performing any or all of its obligations which arises from or is attributable to acts, events, omissions or accidents beyond the reasonable control of the party so prevented including, without limitation, strikes, lockouts or other industrial disputes 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 or flood;

FSA means the Financial Services Authority of the United Kingdom and any successor to its functions;

FSA Rules means the Handbook of rules and guidance of the FSA, as amended or replaced from time to time;

Income Choice means the choice of how to use the income generated by income funds – either Reinvest or Payaway. This applies to all income funds within a product;

Income Mandate means the choice that applies to all products linked to the same Cash Account which determines to Payaway a Customer's income – either hold on platform in the Cash Account, or paid out as consolidated monthly income;

Instruction means any instruction reasonably believed by Cofunds to have been given by authorised Personnel, including instructions to Cofunds to Deal on behalf of Customers and (subject to Clause 7.3) any instruction permitted to be given to Cofunds by a Customer;

Intellectual Property all intellectual property rights including all trade marks, trade names, service marks, design rights, copyright and any similar rights, whether registered or not, anywhere in the world;

Investments means any specified investment within the meaning of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 or any other investment in relation to which Cofunds is willing and able to provide its services from time to time;

Nominee the nominee company of Cofunds which at any time holds investments which have been bought through the Platform or to which a provision of this Agreement is otherwise to apply. At the date of this Agreement the Nominee is Cofunds Nominees Limited;

Payaway means the choice for the Customer to receive income generated by their income funds. Depending on product, the choice can be made to pay it out to the Customer as consolidated monthly income, or hold it on the platform in the Cofunds Cash Account/ Pension Trading Account/ Trading Account;

Pending Trade means a service offered by Cofunds that enables you to place an instruction to buy Units when the Available Balance is not sufficient to fund the trade at that time. The money to carry out the trade must be received by Cofunds within 14 calendar days from the date of instruction. For ISAs, payment must be received within 14 calendar days or by tax year end - whichever falls sooner;

Pension Products means pensions offered by third parties which are hosted on the Cofunds platform. These include the Legal & General Personal Pension and Self-Invested Personal Pension (SIPP), the Sippcentre SIPP, and the Suffolk Life Master SIPP. The Cofunds Pension Account is treated separately;

Pension Trading Account means a client trading account that allows Customers to deal in Platform Funds within the Cofunds Pension Account;

Personnel means those members of staff of the Adviser who are permitted from time to time to use the Platform;

Platform means the platform for dealings in Investments established and operated by Cofunds;

Product Provider means the manufacturer, issuer or provider of an Investment available on the Platform;

Regular Investments means a service offered by Cofunds that enables you to set up regular monthly investments into funds. It includes the Regular Savings Facility (RSF) for ISAs, Investment Funds and Pension Products and the Regular Investment Instruction (RII) for the Cofunds Pension Account;

Reinvest means the Income Choice that any income generated by a Customer's income funds is used to purchase more units of those funds. This choice will apply to all income funds held within the same product;

SLA means the service level agreement between Cofunds and the Adviser, as amended from time to time, which is supplemental to this Agreement and which sets out arrangements relating to the day to day operation of this Agreement;

Trading Account means a client trading account that allows Customers to deal in Platform Funds within Pension Products and international bond products;

Units the rights or interests (however described) of the participants in an Investment and "Unit" shall be construed accordingly;

Valuation Pricing Time on a Business Day, the time set by the fund managers when the Fund is valued and the price of Units set;

Website the website on the internet run by Cofunds under the domain name "www.cofunds.com", through which certain of the facilities of the Platform will be provided, and all software, data, components and other material accessible at that website.

Schedule 2

Terms on which nominee holds units

This Schedule sets out the terms upon which Cofunds will provide custody services to Customers in respect of Units held through the Platform. It will have effect as a separate agreement made between Cofunds and the Adviser acting as agent for each Customer who acquires Units through the Platform. It will apply in relation to all Customers who Deal and all Units acquired through the facilities of the Platform at any time on or after the date of this Agreement. However, it will not apply in relation to Units whose custody is provided for in an alternative agreement or arrangements (for example, ISA terms and conditions) applying directly between Cofunds and the relevant Customer. This Schedule may be amended from time to time by agreement between Cofunds and the Adviser (or in accordance with Clause 26 of this Agreement) without any need for consent by any or all of the Customers concerned, provided that:

- (a) no such amendment will impose any obligation or liability on a Customer without the specific agreement of that Customer; and
- (b) no such amendment will bind a Customer who, to the knowledge of Cofunds, has ceased to use the services of the Adviser at the relevant time. Units to which the arrangements in this Schedule apply are referred to below as "Custody Assets" and the Customer to whom any Custody Assets belong is referred to as the "Owner".

Units to which the arrangements in this Schedule apply are referred to below as "Custody Assets" and the Customer to whom any Custody Assets belong is referred to as the "Owner".

1. Custody Assets will be held in a pooled account. This means that legal title to all Custody Assets will be registered in the name of the Nominee and that each Owner's entitlements will not be identifiable by separate certificates or other physical documents of title. Custody Assets will always be held in such a way that it is readily apparent that they do not belong to the Nominee or Cofunds or any associated company. In the unlikely event of default by Cofunds, any shortfall in Custody Assets may be shared pro-rata among all Owners.
2. Income or other cash proceeds arising from or in relation to the Custody Assets will be held as client money in a client bank account of Cofunds, pending application in accordance with the Owner's instructions.
3. Cofunds accepts responsibility for the acts and omissions of the Nominee and will be personally liable for any loss of Custody Assets.
4. Cofunds and the Nominee will only Deal in Custody Assets pursuant to instructions given by the Adviser or the Owner in accordance with this Agreement save in the case of settlement default.
5. Custody Assets will not be lent to or deposited by way of collateral with a third party. No money may be borrowed on the Owner's behalf against the security of any Custody Assets. Neither Cofunds nor the Nominee will be entitled to any lien or other security interest over Custody Assets.
6. Cofunds will maintain full records of all Dealings entered into for the account of the Owner, which will be made available to the Owner on request, subject to provision of proof of identity reasonably satisfactory to Cofunds.
7. The Nominee will not exercise any rights or privileges attaching to the Custody Assets, except in accordance with instructions received from the Adviser or the relevant Owner in accordance with this Agreement.
8. The Owner may request at any time that any and all Custody Assets held on his /her behalf be transferred to the Owner or to any person nominated by him /her for the purpose. Cofunds will comply promptly with any such request, subject to provision of proof of identity reasonably satisfactory to Cofunds.
9. Nothing in this Schedule will prevent Cofunds from carrying out its duties and obligations under the Act and the FSA Rules.