

# Client Agreement & Terms and Conditions for Business

## Important Information

### Defined Terms

**Account** means the account you open with us in connection with the provision of the Services, and which is accessible via the Website. Your Account may contain a number of Portfolios.

**Advisory Service** has the meaning given to it in Condition 6.2.

**Agreement** means the agreement between you and us for the provision of an Advisory Service and a Discretionary Service, and which consists of:

- **These Terms and Conditions, including the Risk Disclosure Document, Conflicts of Interest Policy and Order Handling and Best Execution Policy, Fees Schedule; and**
- **The Information you have provided in your Profile on the Website in connection with your Portfolio.**

**Associate** means any legal person that has a direct business relationship with MoneyFarm, including, but not limited to, whereby our products and services are offered to clients via a Tied Agent/Appointed Representative Agreement.

**CASS** means the FCA's Client Assets Sourcebook, available from the FCA Handbook as amended from time to time.

**COBS** means the FCA's Conduct of Business Sourcebook, available from the FCA Handbook as amended from time to time.

**Discretionary Service** has the meaning given to it in Condition 6.2.

**FCA** means the Financial Conduct Authority and any successor organisation(s). The address of the FCA is 12 Endeavour Square, London E20 1JN [www.fca.org.uk](http://www.fca.org.uk).

**FCA Rules** means the rules, guidance, principles and codes of conduct that make up the Handbook of Rules and Guidance issued by the FCA in the UK.

**Financial Instrument** has the same meaning as in the FCA Handbook. The Exchange-Traded Funds (ETFs) that we invest in fall within this definition.

**FSCS** means the Financial Services Compensation Scheme.

**FSMA** means the Financial Services and Markets Act 2000 (as amended).

**ISA Agreement** means an Agreement, plus the Moneyfarm Stocks and Shares ISA Application Form and the Moneyfarm ISA Transfer Form, which are available on the Website.

**MiFID** means the European Parliament and Council Directive on markets in financial instruments (No. 2004/39 EC).

**Laws** means:

- (i) All laws and regulations which are relevant to this Agreement;
- (ii) The FCA Rules or any other rules of a relevant regulatory authority; or
- (iii) The rules of a relevant stock or investment exchange.

**Non-Complex Financial Instruments** means any Financial Instrument which satisfies the test set out in rule 10.4.1R of the Conduct of Business Chapter of the FCA Handbook. The ETFs that Moneyfarm invest into are non-complex financial instruments.

**Objectives** has the meaning given in Condition 7.2.

**Portfolio** is each and every investment making up your Account, which may include general investment accounts, ISAs or SiPPs.

**Profile** has the meaning given in Condition 3.4.

**Retail Client** has the same meaning given to it in the FCA Handbook.

**Regulatory Requirement** means (a) any obligation that we or, where relevant, any other person, has to comply with under any law or regulation (including tax legislation or rules made by an applicable regulatory body), or as a result of a decision by a court, ombudsman or similar body; or (b) any

obligation under any industry guidance or codes of practice which we, or where relevant another person, follows; or (c) any other legal or regulatory requirement governing the provision of financial services in the jurisdiction in which we provide services to you under these Terms and Conditions

**Risk Disclosures** means the risk disclosures set out in our website, under the Risk Warning Section.

**Schedule of Charges** means the schedule of charges supplied to you at Appendix 3 to these Terms and Conditions which may be subject to change in the future.

**Services** has the meaning given in Condition 6.

**SIPP Agreement** means an agreement, plus the Moneyfarm Application Form and the Moneyfarm Pension Transfer Form, which are available on our website

**SIPP Management Service** has the meaning given in Condition 6.2

**Stocks and Shares ISA Management Service** has the meaning given in Condition 6.2.

**Terms and Conditions** means these terms and conditions, as amended in accordance with Condition 28.

**Third Party** means, in the context of our products and services, any legal person different from Moneyfarm and/or any associate.

**Website** means our website: <https://www.moneyfarm.com>, our app(s) and their functionalities, as developed from time to time.

**We, us, our** means MFM Investment Ltd trading as Moneyfarm. Our registered office is 90-92, Pentonville Road, London N1 9HS, UK (Company no. 9088155). We are authorised and regulated by the Financial Conduct Authority, licence No 629539.

**You, your, customer, client** means any person holding an Account with us.

## 1. Terms and Conditions for Retail Clients

These Terms and Conditions, together with the information you provide in your Profile and your Portfolio on our Website form part of the Agreement between you and us for the provision of the Services set out below in Condition 6. These Terms and Conditions contain important information regarding the Services that we will provide to you and for your own protection you should read them carefully before accepting them. If you do not understand anything in these Terms and Conditions, please email [hello@moneyfarm.com](mailto:hello@moneyfarm.com) and ask for further help and information.

## 2. Commencement of these Terms and Conditions

The Agreement will become effective, and we shall begin providing the Services to you, once we have opened your Account and you have provided us with the KYC and AML information as specified in Condition 4.1 below.

## 3. Communications and Instructions

### 3.1

As our client, we may communicate with you at any time, including, when appropriate by telephone. If as a result of any unsolicited communication, you enter into any investment transaction you will not have the right under Section 30 of the FSMA to treat such investment transaction as unenforceable. We may record any phone conversations between you and us without your knowledge. These recordings are our property and we may use them in evidence if there is a dispute or for any other reasonable matter.

### 3.2

We will only accept specific and clear instructions and notifications in relation to investments we hold on your behalf (your "**Account**") if we receive the instructions from:

- (a) you; or
- (b) from a person, you have previously told us has the authority to give instructions on your behalf, via a duly signed Power of Attorney.

These instructions may be given electronically using the website, by phone, fax, in writing or by communicating with us via your Account mailbox. We will not be obliged to act on any instruction and in particular we will not act on any instruction where it is against any Law to do so. Where we do act on your instructions we will do so as soon as reasonably practicable once we have received them.

### 3.3

We may act on any instruction or other notification which we believe in good faith is from you without carrying out any further checks or investigations. We will not be liable for following an instruction or notification which is not in fact genuine or for not following or for investigating further any instruction or notification we believe may not be genuine. We will not be liable for any error of transmission or misunderstanding, or for the fraud of any other party (except in the case of our negligence, wilful default or fraud as described in Condition 21 of these Terms and Conditions). We are not obliged to acknowledge receipt of your instructions but will do our best to do so.

### **3.4**

We shall send out all notices, information and other correspondence to you by email at the email address that you specify, or any other email address as you may designate in your personal profile on the Website (“**Profile**”) from time to time. In the event any notice, information or other correspondence is sent to you via letter, such letter will be sent to the postal address that you gave us, or such postal address as you may later designate in your Profile, and will be deemed to be delivered on the second business day after posting.

### **3.5**

We may record and monitor telephone conversations that we have with you. We will store recordings for the period required by law or for as long as we consider appropriate.

### **3.6**

We cannot guarantee that electronic communications will be successfully delivered, or that they will be secure and virus free. We will not be liable for any loss, damage, expense, harm or inconvenience caused as a result of an email being lost, delayed, intercepted, corrupted or otherwise altered or for failing to be delivered for any reason beyond our reasonable control.

### **3.7**

All communications in relation to services provided under these Terms and Conditions will be in English.

### **3.8**

Should you suffer, or fear that you have suffered, from any form of identity theft or that your email account has been compromised, you should contact us at the earliest opportunity so that we may assist you in protecting your Account.

## 4. Your Information

### 4.1

You consent to us using your personal information to provide investment services to you. If you withdraw your consent we will stop providing investment services but may still use your data where we have lawful grounds to do so (for example because we need to retain records for Regulatory purposes).

Moneyfarm is committed to protecting your personal data. We will use your information for a number of different purposes, for example to manage your account, to provide our products and services to you and to meet our legal and regulatory obligations. We may also share your personal information with our trusted 3<sup>rd</sup> parties for these purposes. For more detailed information on how and why we use your information, including the rights in relation to your personal data, and our legal grounds for using it, please refer to our Privacy Policy on our website <https://www.moneyfarm.com/uk/privacy/> or you can request a copy from us by emailing [hello@moneyfarm.com](mailto:hello@moneyfarm.com)

### 4.2

You can request copies of your personal information held by us or any service provider we appoint to provide you with the services under these Terms and Conditions by contacting the firm at [hello@moneyfarm.com](mailto:hello@moneyfarm.com). You should notify us if any of the information held is incorrect.

## 5. Client Categorisation

The Services provided under these Terms and Conditions are provided by us on the basis that you are a Retail Client. This means that you are entitled to the protections that must be provided to Retail Clients under the FCA Rules. We are obligated to adequately categorise you as a Retail client in accordance with the aforementioned rules. If you would like further information on the nature of these protections, please notify us by email by contacting the Compliance Department at [uk.compliance@moneyfarm.com](mailto:uk.compliance@moneyfarm.com).

## 6. Services

### 6.1

The services that we will provide in accordance with these Terms and Conditions are only available to UK residents, partnerships formed under the laws of the UK or bodies incorporated in the UK that may include corporate bodies, charitable foundations and trusts. At our discretion, and in line with our regulatory permissions, we may accept non-UK residents who approach us as a potential client,

providing we are able to satisfy certain requirements to confirm the status, identity and other relevant information of such clients.

## 6.2

We are able to provide you with a number of different services.

We are a privately-owned company which offers restricted advice; Moneyfarm does not recommend, or make investments on your behalf in, products from the whole of the market, but rather a limited range of products from a limited number of carefully selected companies. We do not take any back-end fees or commissions on the financial products we recommend. We are not tied into any one provider of financial products.

Our services are as follows:

- **Advisory Service:** We use the information you provide about your investment and risk objectives to make investment recommendations to you in the form of one or more suitable Moneyfarm portfolios.
- **Discretionary Management Service:** We build and use our expertise to fully manage, each Portfolio according to the portfolio objectives. This means that we monitor the performance of each Portfolio, using our discretion to adjust and balance the investments to ensure that the portfolio remains suitable for you.
- **ISA Discretionary Management Service:** You may invest up to the maximum amount allowable in any tax year (see <https://www.gov.uk/individual-savings-accounts>) in a Moneyfarm Stocks and Shares ISA, sheltering future returns from capital gains tax. Moneyfarm will build and manage the portfolio selected to ensure it remains in line with your investment and risk objectives using our Discretionary Management Service (so the requirements set out in these Terms and Conditions which apply to our Discretionary Management Service also apply to our ISA Discretionary Management Service. There are, however, additional terms which apply to clients to whom we provide this service, and these are set out in Appendix 1 below.
- **Self Invested Pension Plan (SIPP):** A SIPP is a personal pension scheme that helps you accumulate a sum of money to provide you with an income throughout your retirement. The scheme is administered by Embark Services Limited. You should read our Key Facts Sheet on our website as well as the SIPP Terms & Conditions set out in Appendix 2 before you invest in a SIPP.
- **SIPP Discretionary Management Service:** Moneyfarm will build and manage the portfolio selected to ensure it remains in line with your investment and risk objectives using our Discretionary Management Service (so the rights and obligations set out in these Terms and

Conditions which apply to our Discretionary Management Service also apply to our SIPP Discretionary Management Service. There are, however, additional terms which apply to clients to whom we provide this service, and these are set out in Appendix 2 below.

## **7. Discretionary Management Service**

### **7.1**

Your Account comprises personal information about you and your risk profile in addition to different investment objectives in relation to each of our funds ("**Funds**") within your overall investment portfolio.

### **7.2**

You have provided us with information on your appetite for risk and your investment objectives ("**Objectives**"). We are entitled to rely on the information provided by you, and unless we reasonably believe that it is false or misrepresented we will use this information to recommend Portfolios within your Account. You may change your Objectives at any time by updating your Account or by contacting us by telephone and/or email at [hello@moneyfarm.com](mailto:hello@moneyfarm.com). We reserve the right to amend and reissue the Agreement following such change. You agree that the Account is fair and reasonable, and an accurate reflection of your Objectives, and we may assume this to be the case unless you notify us of any change you wish to make or where we consider changes are necessary following a periodic review.

### **7.3**

We will recommend Portfolios in accordance with the information in your Account. You grant us full authority, at our sole discretion, to enter into any kind of arrangement or transaction on your behalf including investing in any type of investments or other assets. For the avoidance of doubt, there will be no limit on the amount of each Portfolio that we may invest in any one investment, or on the proportion of each Portfolio that any one investment may make up, and there will be no limit or restriction on any particular type of investment, or currency, or on the markets on which transactions are carried out.

### **7.4**

We may make common investment decisions which apply to a number of our portfolios including the portfolios in which you are invested. When we make changes to a specific Portfolio, the changes will affect every client invested in that Portfolio.

### **7.5**



Details of the nature and risks of the investments in which you may be invested are set out in the Risk Disclosures document which forms part of this Client Agreement and is available to you separately via our website. Please note that we are unable to provide any guarantee as to the performance of any particular investments or a portfolio as a whole. It is important that you read, and are aware of the risks associated with opening an Account with us. Further details on the risks associated to our services can be found on our website under the Risk Warning section, following this link: <https://www.moneyfarm.com/uk/risk-warning>.

## **7.6**

When providing you with Discretionary Management Services, we will comply with the relevant laws and regulations, including the FCA rules relating to suitability, which are set out in further detail in Condition 10 below.

## **7.7**

We will undertake to review your Portfolio on a regular basis to ensure that it is still suitable for you, based on your current Objectives. We will also automatically re-balance your Portfolio on a regular basis without seeking your consent to do so.

We use appropriate benchmarks to evaluate our performance. Further details on our investment strategy is available on our website.

## **8. Advisory Service**

### **8.1**

In providing our services under this Agreement, for the purposes of Regulatory Requirements, we will treat you as a Retail Client unless we agree with you otherwise. Categorisation as a Retail Client affords you the highest degree of consumer protection under the Regulatory Requirements. However this does not mean that you will automatically be eligible to bring a claim under any investor compensation schemes or ombudsman service available.

### **8.2**

As a retail client, you may have the right to elect to be re-categorised as a professional client (referred to as opting up). This right is available to private individual investors and other retail clients. We can only opt you up if certain criteria are met and certain procedures are followed. We must carry out an adequate assessment of your expertise, experience and knowledge to satisfy ourselves that you are capable of making investment decisions and understanding the risks involved. Professional clients typically have greater knowledge and experience of investing in financial markets and a higher

appetite for risk, and are given a lesser degree of consumer protection under Regulatory Requirements.

### **8.3**

We will only accept a request to opt-up if we are permitted to do in accordance with the criteria in Regulatory Requirements (which require us to review your financial situation and your ability to bear the risk of a lesser degree of consumer protection).

### **8.4**

We will consider any request on a case-by-case basis against the criteria set out in Regulatory Requirements. We will inform you of any limitations that such a re-categorisation will entail, together with the scope of that re-classification. If, following such a request, you are categorised as a professional client, you must keep us informed of any change in your financial circumstances which may affect your categorisation as a professional client. We will provide you with further details about the kind of information which may be relevant to your categorisation and which you will need to provide to us.

### **8.5**

If we notify you that we will treat you as a professional client, you may request to be treated as a retail client either generally or in relation to one or more particular services or in relation to one or more transaction or product, but that may mean terminating the account you have with us.

### **General provisions applying to all advisory services:**

- a) We will evaluate your financial situation, investment objectives, risk profile, capacity for loss and knowledge and experience based on the information you provided, and we will advise you in relation to investment opportunities taking these into account. You should tell us if your financial situation, investment objectives, risk profile or knowledge and experience changes and until such time as you do, we shall be entitled to rely on the most recent information which we hold where it is reasonable for us to do so.
- b) In accordance with the FCA Rules and in order to be able to act in your best interests, we will assess which of our portfolios are suitable for you. We will provide you with a recommendation that includes an outline of the type of portfolio most suitable to you based on your investment objectives, attitude to risk, capacity for risk, financial situation, knowledge and experience and time horizon.
- c) Our fund managers monitor and review our model portfolios with an automated suitability review.

- d) When you make changes to your account that affect your Portfolio choice, we will review your actions and may contact you to discuss the decision to ensure your Portfolio remains suitable for you.

### **Suitability**

- a) In accordance with the FCA Rules and to enable us to act in your best interests, where we have agreed to provide you with a discretionary investment management service we will assess the suitability of any discretionary management decision which we make, to ensure the Portfolio remains suitable for you.
- b) This means that we will assess whether investment in the portfolio;
  - I. meets your investment objectives and risk profile;
  - II. is such that you are able to financially to bear any related investment risk consistent with your investment objectives and risk profile; and,
  - III. is such that you have the necessary knowledge and experience to understand the risks involved with the transaction or with the management of your portfolio (as the case may be).
- c) Unless we agree otherwise with you in writing, we will assess suitability primarily by reference to the suitability of the composition of your portfolio as a whole. This means that our portfolio may contain a number of different investments with different risk profiles which may have a higher (or lower) risk profile than the risk profile of the portfolio as a whole.
- d) So that we can assess the suitability of Portfolios, we will ask you to provide us with information regarding your knowledge and experience of the investments in question, your investment objectives (including the level of risk you are prepared to take) and your financial situation, including your ability to bear losses. This information will be contained in risk profiling documents that you complete, client records that we hold on you as well as information that you provide to us.
- e) It is important that the information you provide to us is accurate and up to date. You should inform us immediately of any changes to your circumstances which may be relevant or changes to the information you have provided to us with. If you do not inform us otherwise we are entitled to rely on the information you have given to us.

## **9. Initial and Minimum Investment**

We require a minimum initial investment and/or an option to add a minimum monthly contribution to your investment portfolio.

### **9.1**

Initial Investment – minimum £500\*\*

### **9.2**

For investments between £500 and £4,999 we require a minimum monthly contribution of £100

### **9.3**

Additional Investment – minimum contribution £100

\*\* Where the minimum investment is not maintained, your account will be suspended and you will be required to close your account as soon as is reasonably practicable. (see clause 33)

### **9.4**

For investment amounts below £1,500, it is sometimes not possible to build a fully balanced portfolio. In this scenario, we will build up the number of investments as you add more money to your account. However, until you reach £1,500 you may find that you have a larger than normal allocation to cash while we wait for more money to buy investments. The investments we buy will always be relevant to your Investor Profile.

## **10. Pooling**

We will normally pool (aggregate) your transactions with those of other clients without seeking agreement from you beforehand. We will only do so where we believe that this is unlikely to disadvantage your overall position, although it may do so in relation to any specific order.

## **11. Delegation and Referrals**

### **11.1**

We reserve the right to perform any of our obligations to you through the agency of an associate or any third party of our choosing. This means that we may appoint another person or entity to provide the services to you under these Terms and Conditions. We will take all reasonable steps to satisfy ourselves that any person whom we appoint to provide any services to you or to perform any of our obligations on our behalf is suitably competent to do so. We will ensure that all such parties agree to provide you with best execution in accordance with the FCA rules set out in COBS 11.2 in the FCA Handbook.

## 11.2

Where appropriate, we may offer to refer you to third parties to provide certain additional services. We will not make any such referral without your consent. We may also accept referrals of business from third parties.

## 12. Fees and Charges

### 12.1

Our fees and charges are calculated on the basis and at the rates shown and are payable as set out in the Fees and Charges Schedule at Appendix 3. We reserve the right to change these rates from time to time and will notify you of any such changes in writing.

### 12.2

We may deduct any amounts payable by you to us from your Account. If the available funds within a Portfolio are insufficient, we may sell assets held as part of other Portfolios within your Account to cover such charges.

### 12.3

We may receive payment from, or share charges with, a third party. We will advise you about such payments or shared charges.

## 13. Statements and Reports

### 13.1

We will provide valuation reports to you electronically on a quarterly basis. These reports will include details of all transactions during the relevant period, details of the contents of your Account, the current market value and the basis of valuation, income and interest and fees charged.

### 13.2

If your employer requires confirmation, we will provide a letter certifying the provision of services on a Discretionary Basis. In general, most employers will accept an electronic copy of this letter which we will provide free of charge. If, however you require an original signed copy we can post this to you. Requests to issue certification letters should be sent to us by email for the attention of the Compliance Officer at [uk.compliance@moneyfarm.com](mailto:uk.compliance@moneyfarm.com).

## 14. Execution Venues and Counterparties

Unless otherwise expressly agreed in advance in writing, we may deal on any markets or exchanges and with any counterparties that we believe provide the best outcome reasonably available. All transactions will be carried out in accordance with the rules and regulations of the relevant market or exchange, and we may take any steps as may be required or permitted by such rules and regulations and/or by appropriate market practice.

## **15. Client Money**

### **15.1**

Any cash held in your Portfolio will be held in accordance with the FCA client money rules in one or more segregated accounts with a carefully selected banking institution. Client money accounts may include the balances of more than one client. Client money may also be placed on overnight or short-term deposit. We will act in good faith and with due diligence in the selection and monitoring of banks holding client money. Where relevant you will be responsible for any additional income tax liability which may be incurred on any interest earned on cash balances with us.

### **15.2**

When considering which banking institution to use, we will exercise due skill, care and diligence and will periodically review the adequacy and appropriateness of any bank or credit institution where your money is deposited and of the arrangements for holding your money. It is important to note that we are not responsible for any acts, omissions or default of a credit institution or bank chosen by us.

### **15.3**

Your money is handled and held with UK financial institutions. However, we may operate client money accounts outside the UK. In the event we do so please note that:

- a) different legal and regulatory provisions will exist outside the UK and the protections may not be equivalent to those available in the UK. In the event that a bank located outside of the UK defaults, fails or otherwise unable to meet its obligations, money held on behalf of clients may be treated differently than if the money was held in the UK;
- b) we will only hold client money in an account outside the UK where the relevant bank has confirmed that all money standing to the credit of the account is held by us as trustee acting on your behalf and that the bank is not entitled to combine or set off the account in respect of any money owed to it on any other account held by us with it, whether in our name or not.

### **15.4**

Client money may be passed by us to a settlement agent in a jurisdiction outside the UK. If the

settlement agent defaults, fails or is unable to meet its obligations, client money may be treated differently from the position which would apply if the money was held in the UK.

### **15.5**

We reserve the right to only make external payments to and to accept payments from the bank account stated in your Account.

### **15.6**

We are not obliged to inform you if we change our Client Bank Account, however we will advise you of our amended bank details via our website.

## **16. Custody**

### **16.1**

Your non-cash investments (**Custody Assets**) will be held subject to the FCA rules and we will act as custodian or arrange for your Custody Assets to be held in custody. Where we do so, we will open, or cause to be opened, such accounts as are required to safeguard adequately your ownership rights in those securities and other assets in the event of our insolvency, and to minimise the chance of loss or diminution of those assets.

### **16.2**

You hereby authorise us to register or arrange the registration of Custody Assets in any name permitted by the FCA Rules. Where the Custody Assets are subject to the law or market practice outside the United Kingdom and it is in your best interests to do so, we may register or record your Custody Assets in our name or the name of a sub custodian. If Custody Assets are held in our name or that of a sub custodian, the Custody Assets may not be segregated or separately identifiable from our assets or those of the sub custodian and, in the event of a default by us or the sub custodian, may not be as well protected from any claims by our or their creditors.

### **16.3**

If we deposit your Custody Assets with a person in a non-EEA state, they will be subject to the law of that state and your rights in relation to those assets may differ accordingly. We will not deposit your Custody Assets with a person in a non-EEA state which does not regulate custody activities unless:

- I. the nature of the financial instrument requires it to be deposited in such a state; or
- II. we receive a prior written instruction from you, in which case the consequences of so doing are entirely at your own risk.

## 16.4

We will exercise all due skill, care and diligence in the selection, appointment and periodic review of any sub-custodian and the arrangements under which the sub-custodian holds the Custody Assets. Subject to any applicable legal or regulatory requirement we shall not be responsible for the acts or omissions, default or insolvency of any sub-custodian holding Custody Assets which we hold for you.

## 16.5

Where we choose to hold an amount of our money to cover a shortfall (i.e. where we discover we are not holding assets of sufficient value to meet our obligations to you), we will hold that amount for the Client in accordance with the FCA's client money rules (**Cover Amount**) until the shortfall is resolved, unless otherwise agreed. Where the relevant shortfall reduces or is otherwise resolved, the Cover Amount (or the portion thereof in excess of the relevant shortfall) shall become immediately due and payable to us. In the event of termination of the Agreement, we will treat payment to you of such money covering a shortfall as fully discharging our obligation to you to return the securities which were the subject of that shortfall.

## 17. Insolvency

### 17.1

As a UK firm authorised and regulated by the FCA that holds client money and assets, Moneyfarm is bound to comply with the Financial Conduct Authority's (FCA) CASS rules. The rules state that Moneyfarm must segregate all retail client funds which means they are held in a bank account separate from Moneyfarm's own bank account and can't be used by us in the course of our day to day operations.

Moneyfarm carries out comprehensive initial and periodic due diligence on the banks and custodian where the client money and assets are held. We are also audited by an independent auditor on an annual basis, with a copy of their report provided to the FCA.

In the unlikely event of Moneyfarm entering into administration, our books and records should be sufficient to enable an insolvency official to determine that client assets fall outside of Moneyfarm's insolvency estate. These records also indicate which assets are to be returned to which clients. These assets will be made available to clients as part of the administration process. As the assets belong to clients and are held by Moneyfarm in trust, no other creditor can access or make claim to these client assets.

If our custodian enters into administration, the assets will be returned to Moneyfarm, who could then continue servicing clients by depositing the assets with an alternative custodian.



However, to the extent that Moneyfarm and/or our custodian fail to comply with our CASS obligations and an insolvency official is unable to determine that particular client assets should fall outside of their respective insolvency estates, FSCS protection may be available to eligible claimants.

## **17.2**

Cash held outside a tax wrapper will be returned to your UK Bank Account. Our nominated custodian will contact you within 90 days of the declaration of insolvency about the cash held in a tax wrapper.

## **18. Deposits**

### **18.1**

Subject to 15.5 we accept payments from any UK account which you are authorised to use, by direct debit or bank transfer.

### **18.2**

When you make a payment by direct debit, your payment will be processed by a third party that is subject to the Payment Services or Electronic Money Regulations. These payments typically take 3 business days to reach us (with a maximum of 7 business days), during which time the money is held by the relevant service provider in an account protected by the relevant regulations.

## **19. Source of Funds**

### **19.1**

We are obliged to comply with the Money Laundering Regulations. To do that, we may occasionally need to ask for proof that a payment received by Moneyfarm has originated from your UK Bank Account. We may also have to ask for evidence that your wealth is from a legitimate source. If we make what we regard as a reasonable request for these purposes, you agree to comply with it.

## **20. Withdrawals**

### **20.1**

We will only pay money to the UK Bank account registered to your Account with us. We have the right to pay funds back to the original bank account if we are unable to verify the details of a new bank account.

## **20.2**

If we receive a request to cancel a direct debit after we have claimed or received the funds, we will return the money and debit your Account. If we need to sell some of your assets to settle amounts outstanding on your Account, we will do so, and you may incur a profit or loss. If your Account becomes overdrawn, we will ask you to settle that overdraft, and you agree to do so within a reasonable period.

## **20.3**

We reserve the right to only make external payments to and to accept payments from the bank account stated in your Account.

## **21. Death**

### **21.1**

We cannot process the administration of a deceased customer's account until we receive an original or certified copy death certificate (Death Certificate).

### **21.2**

When you die, your ISA will not lose its tax-free status, but will be designated a 'continuing account of a deceased investor'. No further contributions can be made into the ISA. We will sell the stocks and shares in your account and hold the proceeds in cash for the benefit of your estate, unless we are specifically asked not to do this, within 30 calendar days of receiving your Death Certificate. Once the process has been completed, and the funds administered, the account will be closed.

## **22. Income**

### **22.1**

Dividends earned on the investments held in your Portfolio which is payable to you will be remitted to your Portfolio and may be reinvested.

### **22.2**

Interest earned on the investments held in your Portfolio which is payable to you will be remitted to your Portfolio and may be reinvested.

## **23. Interest**

### **23.1**

Any interest earned on cash within your Portfolio will be calculated on at least a half annual basis and may be reinvested.

### **23.2**

Moneyfarm reserves the right to keep any interest earned on the available cash outside your Portfolio.

## **24. Conflicts of Interest**

### **24.1**

We or anyone connected with us, may carry out certain transactions for you where we, or another client of ours, have a duty that may conflict with our duty to you. We will manage any such conflict or potential conflict to ensure that it does not materially affect the transactions we carry out for you. We will inform you if we consider that we cannot adequately manage a conflict.

### **24.2**

Our Conflicts of Interest Policy is detailed in a separate document provided with this Client Agreement. This sets out the types of actual or potential conflicts of interest which may arise given the nature of our business and provides details of how these are managed. Further details and updates of this policy can be found on our website or provided on request.

## **25. Loss, damage or costs**

### **25.1**

We accept responsibility for any loss, damages or costs suffered or incurred by you only to the extent that such loss arises directly from our gross negligence, wilful default, fraud, and/or our breach of any duties which we owe you under the FSMA, Regulations or FCA Rules. We will not be liable for any other losses, damages or costs suffered or incurred by you.

### **25.2**

We will take reasonable care in the assessment and appointment of sub-custodians, banks, counterparties, agents and other third parties. We accept responsibility for any loss, damages or costs incurred by you only where these arise from our, negligence, wilful default or fraud in the assessment or appointment of such persons. We will not be responsible in any other circumstance for the actions of any such third parties.

### **25.3**

We do not accept responsibility for any loss, damages or costs you may incur as a result of any cause beyond our reasonable control.

## **26. Indemnity**

You will indemnify us against any liability, cost, expense, loss or any damage incurred by us (including but not limited to professional advisors' fees) arising from your breach of these Terms and Conditions, negligence, wilful default or fraud.

## **27. Our Duties to you**

No provision of these Terms and Conditions will be deemed to restrict, qualify or exclude any duty owed to you under the Laws and Regulations which apply to us. We do not however, owe you any further duties except as expressly set out in these Terms and Conditions.

## **28. Amending These Terms and Conditions**

We may amend these Terms and Conditions and any arrangements made hereunder at any time by emailing notice to you. You will be deemed to accept and agree to the amendment unless you notify us to the contrary within 10 days of the date of our amended notice. If you do object to the amendment, the amendment will not be binding on you, but your account will be suspended and you will be required to close your account as soon as is reasonably practicable. Any amendment to these Terms and Conditions will come into effect on the date specified by us which will, in most cases, be at least 10 business days after you are deemed to have received notice. Any amendment will supersede any previous Terms and Conditions. We will only make changes for good reason, including but not limited to:

- I. Making these Terms and Conditions clearer;
- II. Making these terms and Conditions more favourable to you;
- III. Reflecting legitimate increases or reductions in the costs of providing our services to you;
- IV. Reflecting any mistakes that may be discovered in due course;
- V. Reflecting a change of Applicable Regulations or law.

## **29. Complaints**

### **29.1**

Moneyfarm takes complaints very seriously and have established procedures in accordance with the FCA's requirements for the consideration and handling of complaints, to ensure that complaints are dealt with fairly and promptly.

Should you have any complaints in relation to our services, please notify us by emailing in the first instance to the Client Relationship Management team at [hello@moneyfarm.com](mailto:hello@moneyfarm.com), or alternatively to the Compliance Team at [uk.compliance@moneyfarm.com](mailto:uk.compliance@moneyfarm.com). We will aim to acknowledge your complaint promptly, investigate the circumstances as required and report the results to you in accordance with the FCA rules.

### 29.2

If your complaint is unresolved 8 weeks from the date you first made the complaint you may refer it directly to The Financial Ombudsman Service (“**FOS**”), which is an independent dispute resolution service, free of charge by following the steps outlined on the FOS website: <http://www.financial-ombudsman.org.uk/consumer/complaints.htm>. Certain clients, such as larger companies and trusts may not be considered eligible complainants by the Financial Ombudsman Service.

The Financial Ombudsman Service can be contacted at:

*The Financial Ombudsman Service, Exchange Tower, Harbour Exchange Square, London, E14 9SR*

### 29.3

Further details on our Complaints Handling Procedure can be found on our website under the Legal and Regulatory documents section.

## 30. Compensation

Moneyfarm is covered by the Financial Services Compensation Scheme (“**FSCS**”). You may be entitled to compensation from the FSCS in the event that we have stopped trading, are declared to be in default or otherwise cannot meet our obligations. Your potential entitlement to compensation depends upon the type of business we provide you and the circumstances of your claim. The FSCS offers different levels of cover for different types of business. Most types of investment business are fully covered up to a limit of £50,000. Further information about compensation arrangements is available from the FSCS website ([www.fscs.org.uk](http://www.fscs.org.uk)).

## **31. Termination**

### **31.1**

You may terminate these Terms and Conditions at any time. Termination will take effect 7 business days after we receive notice from you via email or through the website of your wish to terminate these Terms and Conditions.

Your right to terminate these Terms and Conditions set out above is subject to the settlement by you of all outstanding transactions, fees and charges, details of which are set out in the Fees and Charges Schedule located at Appendix 3 to these Terms and Conditions.

We may pass on to you charges levied by third parties as a result of the termination of these Terms and Conditions.

Transactions already in progress will be completed in the normal course of business.

### **31.2**

We may terminate these Terms and Conditions by giving you 10 business days' notice in writing, subject to the settlement of all outstanding transactions.

### **31.3**

We may terminate these Terms and Conditions if you fail to maintain the minimum investment required under clause 9.

### **31.4**

No additional amount will be payable by you solely for terminating this Agreement, except that you will pay a due proportion of our fees to the date of termination and any other applicable fees or transfer charges, details of which are outlined in the Fees and Charges Schedule set out at Appendix 3 to these Terms and Conditions, together with any expenses reasonably incurred by us in giving effect to such termination and any losses incurred in settling or concluding our outstanding obligations.

### **31.5**

We may deduct these fees and expenses from any part of your Portfolio and/or sell assets from your Portfolio to cover such fees and expenses.

### **31.6**

On termination of these Terms and Conditions, we will, following the payment of any outstanding amounts owing to us in accordance with clause 31.1, and the settlement of all outstanding transactions relating to your Account, sell your assets and transfer your cash as you reasonably request.

If you make no such reasonable request we will transfer your cash to you at our discretion.

## **32. Assignment**

### **32.1**

You do not have the right to assign or otherwise transfer to any other party your rights or obligations under these Terms and Conditions.

### **32.2**

We may assign our rights and obligations under these Terms and Conditions at any time, and will send you notice by email of any such assignment prior to its taking effect.

## **33. Inactive Accounts**

We will mark any Account as dormant if it has been inactive for at least one year to protect both you and us. If you ask us, we will tell you how you can access your Account. If you have money in a dormant Account, it will remain your property (or in the event of death it will form part of your estate).

## **34. Entire Agreement**

These Terms and Conditions constitute the entire agreement between you and us and supersede and extinguish all previous agreements and arrangements between us, whether written or oral, relating to its subject matter.

## **35. Governing Law**

### **35.1**

This Agreement and any obligations arising out of or in relation to it are governed by and construed in accordance with English Law, and both we and you agree that all disputes under or in respect of this Agreement shall exclusively be dealt with by the courts of England and Wales.

Nothing in these Terms and Conditions shall affect any right or rule which allows us or you to service documents in any other manner permitted by law.

### **35.2**

The parties irrevocably agree that the courts of England and Wales will have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with these Terms and Conditions (including non-contractual disputes or claims).

## **36. Cancellation**

You have a period of 14 days, beginning on the date on which your Account is opened or the date on which you receive a copy of these Terms and Conditions and other related documents, whichever is the latest, within which to cancel your Account. Moneyfarm will sell any investments made on your behalf during this period but will not be responsible for any market loss that you may incur as a result.

## **37. Third Party Rights**

A person who is not a party to these Terms and Conditions has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement, other than our agents, nominees and Affiliated Companies.

## **38. Timing**

We last updated these Terms and Conditions on 12<sup>th</sup> June 2018.



## **APPENDIX 1: Additional Terms for Clients with Stocks and Shares ISAs**

### **1. Important Information**

#### **1.1**

This section contains additional terms and conditions which are applicable to the Stocks and Shares ISA. It should be read in conjunction with Conditions 1 to 38 above which contain the general terms and conditions for investment services.

#### **1.2**

You are subscribing to this Stocks and Shares ISA for the current tax year and each subsequent tax year in which you subscribe to the Stocks and Shares ISA, and/or transferring to us a current tax year and/or previous tax year ISA from another ISA manager.

#### **1.3**

You cannot subscribe to a Stocks and Shares ISA if you have already subscribed to any other Stocks and Shares ISA in the same tax year.

#### **1.4**

To subscribe for a Stocks and Shares ISA you have to be a UK resident aged 18 or over.

#### **1.5**

These Terms and Conditions will commence on the day we have both a valid application and receipt of your first subscription, or where you are transferring to us from another ISA manager, on the day we have both a valid transfer application form and receipt of the proceeds of transfer from your previous ISA manager.

### **2. Investment Strategy**

#### **2.1**

Your Stocks and Shares ISA will be invested on a discretionary basis in accordance with your Objectives set out by you in your Account subject always to the requirements of HM Revenue & Customs (“HMRC”).

#### **2.2**

For each new tax year, all contributions to your Account will be allocated first to your Stocks and Shares ISA until the maximum subscription is reached for that year, or until your own pre-set limit. Once the maximum subscription or your own pre-set limit is reached, future contributions are allocated to the non-ISA remainder of your Account

### 2.3

We will review your Stocks and Shares ISA on a regular basis to ensure that it is still suitable for you based on your current Objectives. We will automatically re-balance your Stocks and Shares ISA on a regular basis without obtaining your consent to do so.

## 3. Investing in a Stocks and Shares ISA

### 3.1

Investments into a Stocks and Shares ISA may be by cheque, bank transfer, transfer of cash from an existing Portfolio held with us or by transfer from another ISA manager (subject to HMRC's ISA transfer rules).

### 3.2

You will at all times be the beneficial owner of any investments held in your ISA. You must not use the investments and/or cash in your ISA as security for a loan except to the extent permitted by the Individual Savings Account Regulations 1998 (“**Regulations**”).

### 3.3

Your investments will be registered in the name of, or otherwise held to the order of Moneyfarm as the ISA Manager's Nominee. You will at all times remain the beneficial owner of any of your investments that are held by Moneyfarm.

### 3.4

The total of contributions to be invested in any tax year will not be more than the maximum permitted to be invested in stocks and shares by the Regulations for that tax year.

## 4. Withdrawing your ISA investment

### 4.1

You will not incur tax liabilities by withdrawing. We will send an acknowledgment of your instructions to you at the email address you designate in your Account.

#### **4.2**

At your request, we will transfer all or part of your ISA investments (with the associated rights and obligations) to another ISA manager, subject to HMRC's ISA transfer rules.

#### **4.3**

We will process your withdrawal or transfer request promptly and normally within the 30-day maximum period stipulated by HMRC, subject to circumstances outside our control. Should you wish the withdrawal or transfer to take place at a particular time, we will endeavour to meet this request. However, in the case of transfers, we are reliant on the receiving manager and cannot guarantee to do so.

### **5. ISA Regulations**

#### **5.1**

You authorise us to disclose to HMRC all such information as required by law. We will notify you in writing if, by reason of any failure to satisfy the provisions of the Regulations, your Stocks and Shares ISA becomes void.

### **6. Delegation**

#### **6.1**

We will satisfy ourselves that any person to whom we delegate any of our functions or responsibilities under the Terms and Conditions is competent to carry out any of those functions and responsibilities.

### **7. Timing**

#### **7.1**

We last updated these Terms and Conditions on 2<sup>nd</sup> October 2018.

## **APPENDIX 2: Additional Terms for Clients with a Moneyfarm Pension**

This section contains additional pension terms and conditions (“the Additional Pension Terms”) applicable to your membership of the Moneyfarm Pension (your “plan”). These Additional Pension Terms apply to you if you have applied to become a member of a Moneyfarm Pension.

All defined terms in these Additional Pension Terms relate to the Additional Pension Terms only and should not be taken as defined terms in the full scope of this Agreement.

Unless otherwise specified, if you are required under these Additional Pension Terms to give us any instructions in writing you should contact us by email.

### **1. LEGAL AGREEMENT**

#### **1.1**

We have entered into an agreement for Embark Services Limited ("ESL") to provide the Moneyfarm Pension on behalf of our clients. ESL is a company registered in England, company number 2089815, and is authorised and regulated by the Financial Conduct Authority ("FCA").

#### **1.2**

The agreement for your plan is between you and ESL, and will consist of these Additional Pension Terms and the declarations contained in the on-line application.

#### **1.3**

The agreement for your plan will commence on the date that ESL accepts your application for membership of the Moneyfarm Pension.

### **2. THE SCHEME**

#### **2.1**

The Moneyfarm Pension ("the Scheme") is a registered pension scheme. It is governed by the Trust Deed and Rules, a copy of which is available on our website. ESL is the administrator of the Scheme.

#### **2.2**

The trustee of the Scheme is Embark Trustees Limited ("the trustee"). The trustee is the owner of the sums and assets held under the Scheme for the benefit of scheme members. The trustee performs its obligations under the Rules according to the instructions of ESL.

#### **2.3**

If ESL accepts your application for membership of the Scheme it will open an individual plan in your name under the Scheme. In order to join the Scheme you must be resident in the UK for tax

purposes, aged 18 years or over and aged under 75 years.

### **3. INVESTMENT STRATEGY**

#### **3.1**

Your plan will be invested on a discretionary basis in accordance with your Objectives, as advised by you to us, subject always to the requirements of:

- the agreements between us and ESL for the provision and operation of the Scheme; and
- the Trust Deed and Rules.

#### **3.2**

ESL will direct the trustee to open an Account with us to manage the investments in your plan. By agreeing to these Additional Pension Terms you authorise ESL to give this instruction on your behalf.

#### **3.3**

The investments and money in your plan are held on the trustee's behalf using the custodian arrangements as described in this Agreement

### **4. CONTRIBUTIONS**

#### **4.1**

Contributions described in this section can be made to your plan, but not if your plan has been used to commence drawdown pension. Contributions cannot be paid to a beneficiary's plan.

#### **4.2**

Contributions can be made to your plan by you and your employer.

#### **4.3**

ESL reserves the right to refuse contributions paid by any other method including, but not restricted to, cheque payments.

#### **4.4**

Fees and expenses continue to be incurred in respect of your plan whether or not you are contributing.

#### **4.5**

All contributions must be paid in cash and in sterling.

#### **4.6**

Tax relief. ESL claims basic rate tax relief from HMRC on the contributions made by you. ESL will apply basic rate tax relief to eligible contributions at the point the contribution is made unless this service ("Pre-funding") is terminated under section 4.10.

#### **4.7**

You must tell ESL if you are not entitled to tax relief on all or part of the contributions. In the event that contributions over the tax relief limit are paid into your plan, no tax relief will be available on the excess.

#### **4.8**

In the event you exceed the annual allowance under the Finance Act, there is usually a tax charge on you. The annual allowance is the maximum amount of pension savings under UK tax-approved schemes you can accrue each year without incurring the tax charge. You are responsible for notifying the local Inspector of Taxes if the annual allowance is exceeded. The annual allowance is separate from the limits on tax relief which can be claimed on contributions. You should seek financial advice if you are planning to make contributions over the annual allowance.

#### **4.9**

Without prejudice to section 18, ESL can terminate or suspend the Pre-funding service at any time. If ESL chooses to terminate or suspend the Pre-funding service basic rate tax relief will be applied to all eligible contributions at the point the tax relief is received from HMRC, which is typically within four to eight weeks of the date a contribution is paid.

#### **4.10**

Refund of excess contributions. If you have paid pension contributions over the tax relief limit, you can request a refund in respect of the excess on the terms permitted by the Finance Act. ESL can agree to refund the lower of the excess contribution and the value of your plan. HMRC require ESL to repay to it the full amount of the basic rate tax relief that has been claimed on the excess contribution. Any refund to you will be subject to the value of your plan being sufficient to make the required payment to HMRC

#### **4.11**

Any request for a refund you make under section 4.11 must be made to us in writing. The Finance Act may prescribe a time limit for making your request.

#### **4.12**

Any investment loss or growth in respect of refunded contributions is deemed to have occurred outside the Scheme.

#### **4.13**

Any contributions are paid which result in the annual allowance being exceeded, you cannot avoid the annual allowance charge simply by obtaining a refund of contributions from ESL.

### **5. TRANSFERS IN**

#### **5.1**

With the agreement of ESL, you can transfer benefits from another registered pension scheme to your plan. You will not be able to transfer any defined benefits arrangements to your plan.

#### **5.2**

Subject to section 8.4, if you became entitled to drawdown pension on the death of a member under another registered pension scheme you can apply to transfer the entitlement into your plan for the purpose of continuation of drawdown pension. If ESL accepts the application you will be treated as a beneficiary.

#### **5.3**

You are responsible for ensuring that a transfer of benefits is in your best interests. Neither ESL nor the trustee provides advice and ESL's acceptance of any transfer is in no way an endorsement of the suitability for you of the transfer.

#### **5.4**

Transfers-in must be made by cash payment by direct credit and in sterling.

Transfer Declaration

#### **5.5**

When making a transfer to the Moneyfarm Pension, you are required to make the following declarations to the provider of the transferring scheme ("the current provider") and, where the context requires, to ESL:

- I authorise and instruct you to transfer funds from the plan(s) as listed in my online application directly to ESL. Where you have asked me to give you any original policy document(s) in return for the transfer of funds and I am unable to do so, I promise that I will be responsible for any losses and/or expenses which are the result, and which a reasonable person would consider to be the probable result, of any untrue, misleading or inaccurate information deliberately or carelessly given

by me, or on my behalf, either in this form or with respect to benefits from the plan.

- I authorise you to release all necessary information to ESL to enable the transfer of funds to ESL.
- I authorise you to obtain from and release to any financial intermediary named in this application any additional information that may be required to enable the transfer of funds.
- If an employer is paying contributions to any of the plans as listed in my online application, I authorise you release to that employer any relevant information in connection with the transfer of funds from the relevant plan(s).
- Until this application is accepted and complete, ESL's responsibility is limited to the return of the total payment(s) to the current provider(s).
  
- Where the payment(s) made to ESL represent(s) all of the funds under the plan(s) listed in my online application, then payment made as requested will mean that I shall no longer be entitled to receive pension or other benefits from the plan(s) listed.
- Where the payment(s) made to ESL represent(s) part of the funds under the plan(s) listed in my online application, then payment made as instructed will mean that I shall no longer be entitled to receive pension or other benefits from that part of the plan(s) represented by the payment(s).
- I promise to accept responsibility in respect of any claims, losses and expenses that ESL and the current provider(s) may incur as a result of any incorrect information provided by me in this application or of any failure on my part to comply with any aspect of this application.

## 5.6

When making a transfer of benefits that have already been designated for the payment of a drawdown pension to the Moneyfarm Pension, you are required to make the following declarations to the provider of the transferring scheme ("the current provider") and, where the context requires, to ESL:

- I authorise and instruct you to transfer funds from the plan(s) as listed in my online application directly to ESL. Where you have asked me to give you any original policy document(s) in return for the transfer of funds and I am unable to do so, I promise that I will be responsible for any losses and/or expenses which are the result, and which a reasonable person would consider to be the probable result, of any untrue, misleading or inaccurate information deliberately or carelessly given by me, or on my behalf, either in this form or with respect to benefits from the plan.
- I authorise you to release all necessary information to ESL to enable the transfer of funds to ESL.
- I authorise you to obtain from and release to any financial intermediary named in this application any additional information that may be required to enable the transfer of funds.
- If an employer is paying contributions to any of the plans as listed in my online application, I authorise you release to that employer any relevant information in connection with the transfer of funds from the relevant plan(s).



- Until this application is accepted and complete, ESL's responsibility is limited to the return of the total payment(s) to the current provider(s).
- Where the payment(s) made to ESL represent(s) all of the funds under the plan(s) listed in my online application, then payment made as requested will mean that I shall no longer be entitled to receive pension or other benefits from the plan(s) listed.
- Where the payment(s) made to ESL represent(s) part of the funds under the plan(s) listed in my online application, then payment made as instructed will mean that I shall no longer be entitled to receive pension or other benefits from that part of the plan(s) represented by the payment(s).
- I promise to accept responsibility in respect of any claims, losses and expenses that ESL and the current provider(s) may incur as a result of any incorrect information provided by me in this application or of any failure on my part to comply with any aspect of this application.

## **6. TRANSFERS OUT**

### **6.1**

You can transfer all or part of your plan to another registered pension scheme or qualifying recognised overseas pension scheme if the transfer is not an unauthorised payment. A partial transfer of a plan allocated for drawdown pension is not permitted. The transfer is made as soon as reasonably practicable.

### **6.2**

Transfers out are made by cash payment.

## **7. TAKING BENEFITS**

### **7.1**

You can take benefits from the normal minimum pension age under the Finance Act in either or both of the following ways by instructing us in writing:

### **7.2**

- buy a lifetime annuity from an annuity provider in your name with the balance of all or part of a pension fund (after any pension commencement lump sum as described in section 7.2 below);
- take drawdown pension with the balance of all or part of a pension fund (after any pension commencement lump sum as described in section 7.2 below) — see section P8.

Each option can be taken with or without a pension commencement lump sum. Normally, the maximum lump sum will be 25% of the value of the part of your plan being used to provide these benefits. A higher or lower amount might be available if you had transitional rights in respect of

benefits earned before 6 April 2006 under schedule 36 of the Finance Act and you meet the conditions under it. Tax will not normally be payable on the lump sum. The lump sum will be paid once cash is available in your designated account.

### 7.3

When you commence taking benefits from your plan, the value of the part of your plan being used for benefits must be tested against the lifetime allowance, as set by the Finance Act. A test against the lifetime allowance will also be made in other circumstances set by the Finance Act. If the lifetime allowance is exceeded, there is a tax charge. ESL will deduct the tax charge from your plan. You must provide us with the information necessary for ESL to calculate the tax charge. You are responsible for any further tax charges that may arise as a result of that information being incorrect or failing to be provided.

### 7.4

You may be able to take benefits before the normal minimum pension age:

- if ESL is satisfied that you are in ill health, as defined in the Finance Act;
- if you had transitional rights at 6 April 2006 to a protected pension age under Schedule 36 of the Finance Act and you satisfy the conditions; or
- as a serious ill health lump sum, if you satisfy the conditions in the Finance Act for a serious ill health lump sum. The tax treatment of a serious ill health lump sum is set by the Finance Act.

You are responsible for ensuring that there is enough cleared money in the designated account available in good time to pay any benefits you have chosen to take. If there is not enough cleared money in the designated account to pay the benefits ESL will instruct the sale of assets within your plan under the procedure described in section 12. Depending on how you have chosen to invest your plan there may be an unavoidable delay in selling the assets, which could delay the benefit payment.

## 8. DRAWDOWN PENSION

### 8.1

You can draw income from your plan by allocating your plan to provide flexi-access drawdown pension, if you are entitled to take benefits under section 7 and ESL accepts your application for drawdown pension.

### 8.2

With flexi-access drawdown pension, you can take any level of income you choose, and you can choose not to take any income at all after having taken your pension commencement lump sum. You can increase or reduce the amount of income being drawn or ask for an extra one-off flexi-access drawdown pension payment. You can choose for it to be paid on a monthly, quarterly, semi-

annual or annual basis.

### **8.3**

If you wish to change the amount of flexi-access drawdown pension being drawn from your plan you should instruct us in writing.

### **8.4**

With the agreement of ESL you can transfer in benefits previously allocated to pay a capped drawdown pension under another registered pension scheme, but at the point of the transfer you must agree to convert the capped drawdown pension to a flexi-access drawdown pension. Without your agreement under this section 8.4, ESL will not accept the transfer.

## **9. BENEFITS FOLLOWING MEMBER'S DEATH**

### **9.1**

On your death ESL will use your remaining pension fund in either or both of the following ways as ESL in its absolute discretion determines:

- to provide pension income in accordance with section 9.3 for any one or more beneficiaries and, if more than one, in such proportions as it decides; and
- to pay one or more lump sum death benefits in accordance with section 9.4.

ESL will write to your personal representatives or potential beneficiaries (as applicable) with details of the ways in which benefits can be provided.

### **9.3**

A beneficiary who becomes entitled to a pension under section 9.1 must (i) use all or part of the pension fund to buy a lifetime annuity in the beneficiary's name or (ii) apply to take income as drawdown pension (see section 8) from the pension fund. Any application for drawdown pension must be made using ESL's prescribed application form, which includes the beneficiary's acceptance of these Additional Pension Terms. ESL can decline an application if it would, in its opinion, limit or restrict in any way its ability to administer the Scheme.

### **9.4**

If ESL decides to pay one or more lump sum benefits and ESL is satisfied that at the time of your death your benefits are subject to a valid trust, ESL will apply the pension fund allocated for lump sum benefit(s) to the trustees of that trust. A "valid trust" is one which is separate from the Scheme and under which no beneficial interest in a benefit can be payable to you, your estate or your legal personal representatives. If there is no such trust, the pension fund ESL has decided to apply as

lump sum benefit(s) is paid to one or more recipients as ESL decides (from the range of possible "lump sum beneficiaries", as defined in the Rules) and in such proportions as ESL decides.

#### **9.5**

The tax treatment of death benefits is set out in the Finance Act. Benefits paid on the death of a member or beneficiary before the age of 75 are normally tax-free. Where required by the Finance Act ESL will deduct any tax due before the payment of benefits.

#### **9.6**

You should complete the "expression of wish" information to inform ESL of your wishes for who should receive death benefits and the form of those benefits (lump sum or pension) for when ESL is exercising its discretion. ESL takes your wishes into account but it is not bound by them.

#### **9.7**

You can state or amend your wishes at any time. You can state or amend your wishes by notifying us in writing.

### **10. BENEFITS FOLLOWING BENEFICIARY'S DEATH**

#### **10.1**

If a beneficiary dies while taking income through drawdown pension, ESL will use the beneficiary's remaining pension fund in either or both of the following ways as ESL in its absolute discretion determines:

- to provide pension income in accordance with section 9.3 for any one or more beneficiaries and, if more than one, in such proportions as it decides; and
- to pay one or more lump sum death benefits in accordance with section 9.4 for any one or more beneficiaries and, if more than one, in such proportions as it decides.

### **11. DESIGNATED ACCOUNT**

#### **11.1**

ESL will open a bank account for your plan ("the designated account"). The bank account selected by ESL is opened as a trust account in the name of the trustee, and is used to pass monies to and from your Account which is set up in accordance with section 3 of these Additional Pension Terms. Once the monies have been received in the Account, they will be transferred for investment purposes to your account with our custodian or a sub-custodian, as described in section 18 of the Terms and Conditions.

## **11.2**

For audit purposes all contributions, transfers and benefit payments will be recorded in the "general ledger" for ESL's operating system as having been credited to or debited from your designated account.

## **11.3**

ESL gives instructions to the trustee in relation to the operation of the designated account and the trustee is the only authorised signatory.

## **11.4**

The designated account earns interest at a tiered rate depending on the balance of the account. Any cash held in the designated account will be automatically transferred to your Account with us and invested in accordance with section 3 or, if intended for the payment of benefits under sections 7, 9 or 10, transferred to the intended recipient no later than the end of the next business day following the day that the cash becomes held in the designated account. Any interest earned will be paid annually to a registered charity selected by ESL and will not be paid to you. If the interest earned by the designated account is less than the interest paid by the bank to ESL across all the accounts ESL has with them, ESL keeps the difference.

## **11.5**

ESL does not hold client money. Money which is held in the designated account falls outside the scope of protection provided by the Client Money Rules as set out in the Financial Conduct Authority's Client Assets Sourcebook.

## **11.6**

The designated account must not go overdrawn.

## **11.7**

ESL operates central clearing client account(s) through which cash amounts pass before or after being allocated to your designated account, as follows:

- any amounts to be invested are transferred from the designated account to the central clearing client account up to 5 business days prior to ESL processing your instruction;
- the amount of any expenses and costs being paid from your plan is transferred from the designated account to the central clearing client account up to 5 business days prior to paying the recipient;
- the gross amount of any pension income payments is debited from the designated account up to 5 business days prior to the payment date and transferred to the central

clearing client account;

- any tax deducted under PAYE from pension income paid to you from the designated account is credited to the central clearing client account pending payment to HMRC.

### **11.8**

The central clearing client account(s) are non-interest bearing accounts.

## **12. INSUFFICIENT FUNDS**

### **12.1**

If there is not enough cleared money to make any payment due under these Additional Pension Terms ESL instructs us on behalf of the trustee to make a disinvestment from the Moneyfarm account held within your plan.

### **12.2**

Neither the trustee nor ESL is responsible for determining which assets should be sold under this section 12 in order to provide sufficient cleared money.

### **12.3**

ESL will instruct us to commence the disinvestment process 11 business days before payment is due.

### **12.4**

In some circumstances, it is necessary to sell an asset at whatever price is available at the time. This can result in selling assets when the relevant market is depressed. Selling any investment is governed by the terms and conditions of that investment.

## **13. RESPONSIBILITY AND LIABILITY**

### **13.1**

ESL and the trustee are not responsible for selecting or monitoring performance of investments, or for assessing suitability of investments for you or providing financial or other advice.

### **13.2**

You are responsible to us for the fees and charges set out in Fees and Charges Schedule to these Terms and Conditions. Without prejudice to section 13.3, for the duration of the agreement described in section 1.1 (between us and ESL for the operation of the Scheme) neither ESL nor the trustee will charge you any additional fee for the administration of your plan.

### 13.3

With the exception of the fees and charges described in section 13.2, you are responsible to ESL and the trustee for all reasonable fees, costs, claims, expenses, tax charges, levies, liabilities, demands and losses that they suffer or incur in respect of any person who is not part of the Embark group of companies and that is beyond their reasonable control:

- in performing their duties under your plan;
- in carrying out their lawful duties and responsibilities in relation to you;
- in acting on requests or instructions made by you (including in connection with the appointment of any investment firm or service provider) if the requests or instructions are in compliance with law and your plan; or
- if you carry out or arrange an action in respect of your plan that is unlawful or contrary to the Scheme or that results in a liability or cost to you, your plan or the Scheme. except in all cases as a direct result of ESL's or the trustee's wilful neglect, wilful default or fraud. This section 13.3 continues in force after your pension fund(s) have been extinguished or the Scheme has been wound up.

### 13.4

Neither ESL nor the trustee are responsible for any loss (including loss of profit) in relation to, or reduction in value of any investment:

- acquired at your request unless such loss or reduction results from fraud, wilful misconduct, negligence or breach of regulatory duty on the part of ESL or the trustee, or the fraud, wilful misconduct, negligence or breach of regulatory duty of any of their employees or agents;
- not acquired or not disposed of in accordance with ESL's or the trustee's rights under these Additional Pension Terms;
- disposed of in accordance with these Additional Pension Terms unless such loss or reduction results from fraud, wilful misconduct, negligence or breach of regulatory duty on the part of ESL or the trustee, or the fraud, wilful misconduct, negligence or breach of regulatory duty of any of their employees or agents;
- which results from any action or omission of any nature whatsoever by any investment firm or by any nominee, banker, custodian or other person providing services to ESL or the trustee; or
- which may arise as a consequence of selling an investment under section 6.

### 13.5

Other than as a direct result of wilful neglect, wilful default or fraud by ESL or the trustee, neither ESL nor the trustee accept any liability or obligation for any or all losses, costs, actions, proceedings, claims and demands arising directly or indirectly that are incurred by, or brought or

made against ESL or the trustee:

- if ESL or the trustee acted in good faith in accordance with any instruction (relating to benefit options, benefit nominations and investment directions) that reasonably appears to ESL to have been given by you;
- as a result of having acted in good faith on the instruction of a legally authorised party acting on your behalf;
- as a result of any default or error by you or by your agents or investment firms or your representatives;
- as a result of any instruction or investment direction sent by you, or your representatives or agents, or any other third parties who may hold or manage or advise on investments not being received by us;
- as a result of any investment disposed of or not acquired or not disposed of in accordance with ESL's rights under your plan;
- for the defaults or errors of or any losses whatsoever caused by any third parties, investment firms, providers of execution only dealing facilities, third parties who may manage investments, nominees, custodians, banks or institutions which hold any assets including cash (or are a counterparty to any investment) including, but not limited to, insurance company unit-linked funds, stocks and shares, unit trusts, open-ended investment companies (OEICs) and investment trust companies; and
- for the default or error of or any losses whatsoever caused by any professional adviser or manager appointed by some or all of you, ESL and the trustee; and
- for any failure or delay in implementing any instruction or investment direction or in performing some or all of ESL's or the trustee's obligations in respect of the Scheme or your plan which is caused by circumstances beyond ESL's reasonable control, including but not limited to any one or more of: act of God, earthquake, storm, flood, lightning, fire, explosion or similar natural events; power failure; failure or disruption of a computer system or other equipment, including electronic mail systems and telecommunications; failure or disruption of any relevant stock exchange, including depositories, settlement systems or markets; strike, lockout, other industrial action or other interference with work; nationalisation, expropriation, prohibition, intervention, direction or embargo; imposition by any governmental or quasi- governmental authority of currency restrictions, exchange controls or other charges or restraints affecting your arrangement(s) or the investments and assets allocated to it; inability or delay in obtaining governmental or quasi-governmental approval, consent, permit, licence, authority or allocation; intervention by an exchange or regulator; act of war (declared or undeclared), terrorism, insurrection, revolution, civil disturbance, riot, blockade or other disturbance. It is



expressly agreed by that possible difficulties which may be encountered by ESL or the trustee with respect to its ability to perform its obligations under this Agreement following the withdrawal of the United Kingdom from the European Union following the initiation of the withdrawal procedure under Article 50 of the Lisbon Treaty, shall not be deemed to be circumstances beyond ESL's reasonable control.

### **13.6**

If such an event occurs and the failure or delay by ESL or the trustee is material, ESL, to the extent reasonably practicable, will give you prompt notice of that event unless you might reasonably be expected to be aware of the circumstances. ESL then also gives you reasonable particulars of it and, insofar as known, the probable extent to which ESL and/or the trustee are unable to perform, or be delayed in performing, the relevant obligations.

### **13.7**

Other than as a direct result of wilful neglect or wilful default or fraud by ESL or the trustee, neither ESL nor the trustee accept any liability or obligation for unauthorised payment tax charges, taxable property charges, scheme sanction charges, tax surcharges, income or capital gains tax, or any other tax or levy.

## **14. TAXATION AND LEVIES**

### **14.1**

ESL deducts from payments made under your plan any tax or levy that ESL or the trustee are required or entitled to deduct in accordance with law or HMRC requirements. Any income payments you receive from your plan are taxed under the pay as you earn system. ESL and the trustee are not liable for any loss that you incur as a result of the use of an incorrect tax code. ESL may also deduct any taxation or levy for which ESL or the trustee might be accountable in accordance with law or HMRC requirements until ESL's or the trustee's liability has settled – any remaining amount of the deduction from the proposed payment is made by ESL on settlement of the liability.

### **14.2**

ESL deducts from each pension fund any tax (including scheme sanction charge) or levy imposed on ESL or the trustee that relates to the relevant plan. If a tax or levy is imposed on ESL or the trustee in respect of the Scheme as a whole, ESL allocates such proportion of the tax or levy to your plan as it considers reasonable.

## 15. FINANCIAL SERVICES COMPENSATION SCHEME

### 15.1

ESL is covered by the Financial Services Compensation Scheme (FSCS). This is a scheme that provides limited compensation for customers who might otherwise lose out if a company regulated in the UK by the Financial Conduct Authority is unable to pay claims against it. If ESL is unable to meet its obligations to you then you may be eligible to make a claim for compensation under the FSCS. If a provider of an underlying investment or bank account is unable to meet its obligations to ESL, then you or ESL on your behalf may be eligible to make a claim for compensation under the FSCS. The maximum amount that can be claimed will depend on the investment type. FSCS contact details are:

10th Floor Beaufort House 15 St. Botolph Street London EC3A 7QU

Tel: 020 7741 4100 [www.fscs.org.uk](http://www.fscs.org.uk)

## 16. COMPLAINTS

### 16.1

If you have any complaints in relation to your plan, please notify us by emailing the Head of Customer Support at: [hello@moneyfarm.com](mailto:hello@moneyfarm.com) or alternatively to the Compliance Team at <mailto:uk.compliance@moneyfarm.com>.

### 16.2

We will aim to acknowledge your complaint promptly, investigate the matter and report the results to you. If your complaint relates to services provided by ESL we will direct your complaint to ESL.

### 16.3

If you are not happy with the response to your complaint, you might have the right to refer it to the Pensions Advisory Service, the Pensions Ombudsman Service or the Financial Ombudsman Service. We tell you about any ombudsman referral rights at the time. Making a complaint, unless made to the Pensions Ombudsman Service, does not hinder your right to take legal proceedings.

The Pensions Advisory Service 11 Belgrave Road London SW1V 1RB Tel: 0800 011 3797

Pensions Ombudsman Service 10 South Colonnade Canary Wharf E14 4PU Tel: 0800 917 4487

Financial Ombudsman Service Exchange Tower, Harbour Exchange Square, London, E14 9SR Tel: 0800 023 4 567

## **17. DATA PROTECTION AND CONFIDENTIALITY**

### **17.1**

ESL is the data controller of any information it holds about you. ESL complies with all relevant data protection legislation.

### **17.2**

Your information includes any details which ESL holds about you and includes information received from third parties. ESL uses your information for the purpose of establishing, processing and administering the Scheme and discloses your information to the trustee. You accept that even if the application to join the Scheme does not proceed, your information can be stored for regulatory, statutory or audit purposes.

### **17.3**

ESL does not disclose your information to anyone other than us and the trustee unless:

- it is to other members of the Embark group of companies, any of ESL's agents, delegates and advisers and any person anywhere in the world in the proper performance of ESL's obligations in relation to your plan or the Scheme including under the Finance Act as it affects the Scheme; or
- ESL has your permission; or
- it is to any person ESL reasonably believes to have been appointed by you as your investment manager or professional adviser; or
- ESL is required or permitted to do so by law or any competent authority; or
- ESL is transferring your information to its third party service providers, credit reference agencies and fraud prevention agencies; or
- ESL has transferred its rights and obligations in relation to your plan.

### **17.4**

ESL can transfer your information to other countries that provide a different level of data protection from the UK. In such circumstances, ESL will put a contract in place to ensure your information is protected. Your information may be accessed by law enforcement agencies and other authorities in that country to prevent and detect crime.

### **17.5**

You can request a copy of the information ESL holds about you by writing to us at: [clientservicing@hornbuckle.co.uk](mailto:clientservicing@hornbuckle.co.uk)

## 18. VARIATION

### 18.1

ESL can change your plan (including these Additional Pension Terms) for any of the following reasons:

- to respond proportionately to changes in general law or decisions of the Financial Ombudsman Service or the Pensions Ombudsman or the Financial Services Compensation Scheme;
- to respond proportionately to a court order or decision affecting the Scheme or plan;
- to meet regulatory requirements;
- to reflect new industry guidance and codes of practice which raise standards of consumer protection;
- to reflect a change in ESL's corporate structure that doesn't have an unfavourable impact on you but which does require ESL to make certain changes to the terms of the Scheme or plan;
- to respond proportionately to changes in the Bank of England base rate, other specified market rates or indices or tax rates;
- to proportionately reflect other legitimate cost increases or reductions associated with providing the Scheme and plan;
- to provide for the introduction of new or improved systems, methods of operation, services or facilities; or
- to correct any mistake in the Additional Pension Terms, provided the correction does not reduce any rights that you have as a result of the mistake.

### 18.2

ESL gives you notice of any change under section 18.1 in advance where practicable, or at the earliest opportunity after the change where advanced notice is not practicable.

### 18.3

Further, ESL can change your plan (including the Additional Pension Terms) if ESL has any other valid reason for doing so.

## 19. TERMINATION

### 19.1

Your plan continues until all your pension fund(s) have been extinguished through the payment of a transfer value to another registered pension scheme or the provision of pension or death benefits outside the Scheme. The provisions of sections 13 and 14 continue in full even though all your pension fund(s) have been extinguished.

### 19.2

By giving you six months' notice in advance, ESL can transfer-out your plan for any of the following reasons:

- if the Scheme becomes too expensive for ESL to operate;
- if ESL makes an alternative scheme available that provides similar benefits;
- if the registration of the Scheme is removed by HMRC; or
- your behaviour, in ESL's reasonable opinion, is abusive, offensive or threatening (in language or action) or is otherwise inappropriate.

### 19.3

For transfers under section 19.2, ESL makes the transfer to any registered pension scheme you notify to ESL before the end of the six month notice period or, if you do not notify ESL of your chosen scheme, to a scheme that ESL chooses and you authorise ESL to execute any documentation on your behalf necessary to achieve the transfer. Further, ESL transfers the investments and cash held in respect of your plan net of any liabilities (less the amount required to satisfy all charges due to us and all costs chargeable to your plan). Investment transactions already initiated by ESL are completed. The trustee is authorised to continue to operate the designated account to ESL's order and direction for the purposes of receiving money, paying benefits and paying any expenses or fees due to ESL, the trustee or other parties.

## APPENDIX 3: FEES AND CHARGES SCHEDULE

### 1. Categories

Our fees and charges fall into three categories:

- a) Annual management fees;
- b) Withdrawal charges; and
- c) Additional charges.

### 2. Annual Management Fees

The fee is a percentage of your total assets under management with us. The fees are structured into tiers (or brackets) depending on the size of your Account (similar to the tax system), as set out in the table below:

#### Annual management fee (Including VAT)

- 0.7% between £0 and £20,000
- 0.6% between £20,001 and £100,000
- 0.5% between £100,001 and £500,000; and
- 0.4% over £500,001

By way of example, if a client invests £70,000 with us, they would pay fees of:

- 0.7% on the first £20,000 £140.00
- 0.6% on the next £50,000 £300.00
- Total = **£440.00** including VAT

We reserve the right to review the fees where we believe total gross contributions are being manipulated by deposits and subsequent withdrawals, or other unreasonable activity.

### 3. Withdrawal charges (not subject to VAT)

Moneyfarm does not charge for any withdrawal fee.

### 4. Additional charges (not subject to VAT)

Moneyfarm levies no additional charges, but there are other costs, fund fees and transaction costs, that contribute to the total cost of investing. Please visit our Pricing page to see what you will pay.