



**HILBERT**  
Investment Solutions

# MPS Protect 90

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## Terms and Conditions



# Hilbert Protect 90 Managed Portfolio Service: Terms and Conditions

## INVESTOR AGREEMENT

This Investor Agreement sets out the terms and conditions for the Hilbert Protect 90 Managed Portfolio Service ("MPS") under which **Hilbert Investment Solutions Ltd** (the "Investment Manager", "Administrator", "us" or "we"), manages your Portfolio within its discretionary investment management service to you, as an Investor. Hilbert Investment Solutions Limited, a company authorised and regulated by the Financial Conduct Authority (FCA number: 698380) will also act as the "Administrator" meaning we process your application, deal with any queries you have, and buy and sell the Securities in your Portfolio. The Bank of New York Mellon is the 'Custodian', meaning it will hold the Securities in your Portfolio on your behalf for safe custody.

### 1. Definitions, Construction and Interpretation

1.1 In this Investor Agreement the definitions contained in the Brochure shall apply.

1.2 Words and expressions defined in the Financial Conduct Authority (FCA) Rules which are not otherwise defined in this Investor Agreement shall, unless the context otherwise requires, have the same meaning in this Investor Agreement.

1.3 Any reference to a statute, statutory instrument or to rules or regulations in this Investor Agreement shall be references to such statute, statutory instrument or rules or regulations as from time to time amended, re-enacted or replaced and to any codification, consolidation, re-enactment or substitution thereof as from time to time in force.

1.4 In this Investor Agreement, unless the context otherwise requires, references to the singular only shall include the plural and vice versa; words importing the masculine gender shall include the feminine and neuter and vice versa;

words importing persons shall include bodies corporate, unincorporated associations and partnerships.

1.5 Unless otherwise indicated in this Investor Agreement, references to clauses shall be to clauses in this Investor Agreement.

1.6 Headings to clauses are for convenience only and shall not affect the interpretation of this Investor Agreement.

## 2. Managing Your Portfolio

2.1 This Investor Agreement comes into force on the date that the Investment Manager accepts the Investor's Application Form and shall supersede, replace and operate to the entire exclusion of any previous or other terms and conditions.

2.2 This Investor Agreement enables the Investor's Portfolio to be managed. The Investor hereby appoints the Investment Manager, on the terms set out in this Investor Agreement, to manage their cash and investments within the Portfolio and collectively with those of other Investors. The Investment Manager agrees to accept its appointment and obligations on the terms set out in this Investor Agreement.

2.3 The Investor confirms that they are not seeking advice from the Investment Manager on the merits of investing in the Managed Portfolio Service.

2.4 The Investor agrees that the Investment Manager and its Associates, may hold information about them and their affairs in order to verify their identity and financial standing or otherwise in the performance of this Investor Agreement (among other things the Investment Manager, its Associates and agents may consult a credit or mutual reference agency, which may retain a record of the enquiry).

2.5 Anti-money laundering regulations aim to prevent criminal property being used or disguised as legitimate wealth. The Investment Manager has a duty to comply with any applicable anti-money laundering provisions including the Proceeds of Crime Act 2002 (as amended), the Money Laundering Regulations 2017 (as amended) and the FCA Rules. The Investment Manager must, therefore, verify the Investor's identity and report suspicious transactions to the appropriate enforcement agencies.

If the Investor does not provide the identity verification information when requested, the Investment Manager may be unable to accept any instructions from the Investor or to comply with its obligations under this Investor Agreement in whole or in part.

2.6 Following acceptance of an Application Form, the Investment Manager will write to the Investor confirming acceptance and enclosing a Cancellation Notice. Each Investor may exercise a right to cancel the Investor Agreement by notification to the Investment Manager within 14 calendar days of their receipt of the Cancellation Notice by confirming this in writing to the address given in clause 21.1.

2.7 If the Investor exercises their cancellation rights, the Investment Manager shall arrange for the refund of any monies paid by the Investor, less any charges the Investment Manager has already incurred for any services undertaken pursuant to the terms of this Investor Agreement or paid out in respect of authorised Financial Adviser Fees.

2.8 The Investment Manager will endeavour to arrange the return of any monies pursuant under this clause 2.7 as soon as possible (but in any event not more than 28 calendar days following receipt of the Cancellation Notice). The Investor will not be entitled to any interest on such monies. The Investment Manager and Custodian is obliged to hold the Investor's Investment Amount until they have satisfactorily completed their money laundering checks.

2.9 All further provisions of this agreement shall cease thereupon to apply.

2.10 The right to cancel under the FCA Rules does not give the Investor the right to cancel, terminate or reverse any particular investment transaction executed on behalf of the Investor before cancellation takes effect.

2.11 The right to cancel set out in clause 2.6 is without prejudice to the right under clause 17.2 below to terminate this Investor Agreement, which is a separate right.

### 3. Regulatory

3.1 The Investment Manager is authorised and regulated by the Financial Conduct Authority (FCA). The FCA's Head Office is **12 Endeavour Square, London E20 1JN**. The Investor is classified as a retail client for the purposes of FCA Rules. The Investor has the right to request a different client categorisation. However, if the Investor does so, and if the Investment Manager agrees to such categorisation, the Investor will lose protections afforded to retail clients by certain FCA Rules.

The Investment Manager and/or Administrator and Custodian participates in the Financial Services Compensation Scheme (FSCS), established under the Financial Services and Markets Act 2000 (as amended), which provides compensation to eligible investors in the event that either the Investment Manager or the Administrator and Custodian are unable to meet their liabilities or obligations to the Investor.

3.2 The Investor's Portfolio will comprise of Investments in a selection of Exchange-Traded Funds (ETFs) which are collectively managed on behalf of all Investors in accordance with the investment objectives and restrictions set out in the relevant Portfolio Summary Document. The Investment Manager will be responsible for the discretionary management of all cash and investments within the Portfolio but each Investor, for legal and tax purposes, will be the beneficial owner of the ETFs in the Portfolio.

3.3 The Investment Manager will comply with the FCA's conduct of business rule, which requires the Investment Manager to take all reasonable steps to obtain, when making investment decisions,

the best possible result for the Investor taking into account the execution factors: price, costs, speed, likelihood of execution and settlement, size, nature and any other consideration relevant to making an Investment.

In doing this, the Investment Manager will take into account the following criteria for determining the relative importance of these execution factors: the categorisation of the client and the characteristics of the normal commercial practice of the counterparties. The Investors are the clients of the Investment Manager for regulatory purposes.

3.4 All money belonging to Members is held in a Designated Client Money Account in the name of Hilbert Investment Solutions Limited until the purchase of the Securities, following the calculation of an income payment (if applicable, while we hold the income pending payment to you), or following maturity or earlier redemption of the Securities. This ensures that all Members' money is separate from the funds belonging to the Investment Manager. The Investment Manager does not accept any liability for default by any bank or other financial institution holding funds under these Investment Terms. In the event of a default on repayment, any shortfall in Members' monies would be apportioned on a pro-rata basis between all Members in the Portfolio (or as otherwise required under the Rules).

The Investment Manager will use your Amount Invested to purchase the Securities to be held in the Portfolio.

3.5 If the Investor has a complaint regarding the Service they may raise the complaint with their Financial Adviser or directly with The Investment Manager by writing to the address given in clause 21.1 and they shall endeavour to resolve the complaint speedily and efficiently, and will reply to the Investor in writing.

If the complaint is not resolved to the Investor's satisfaction then they may be entitled to refer it to the Financial Ombudsman Service. Please refer to clause 20 for further details on the Financial Ombudsman Service.

#### 4. Services

4.1 The Investment Manager will manage the Portfolio on the terms set out in this Investor Agreement. The Investment Manager will exercise all discretionary powers in relation to the selection of, or exercising rights relating to, Investments on the terms set out in this Investor Agreement, including, in particular the negotiation and execution of agreements and ancillary documentation relating to Investments. The Investment Manager will also arrange for the provision of safe custody and administration services in relation to the Portfolio. The Investment Manager may provide safe custody and/or administration services itself or through an Associate if the correct regulatory permissions are in place.

4.2 If the Investment Manager chooses to change the Administrator and Custodian it will enter into such custodian and administration service agreements and on behalf of each Investor, and the Investor warrants to the Investment Manager on a continuing basis that the signing, delivery or performance of such custodian and administration service agreement and the giving of instructions to the Administrator and Custodian under it does not and will not contravene or constitute a default under the following:

- (a) any Applicable Law by which the investor or any of their cash and investments are bound or affected; or
- (b) any rights of any third parties in respect of the Investor.

4.3 The Investor hereby authorises the Investment Manager or its agents to act on its behalf and in the name of the Investor (or their nominee) to negotiate, agree, execute and do all such acts, transactions, agreements and deeds as the Investment Manager or its agents may deem necessary or desirable in connection with the Portfolio for the purposes of managing cash and investments on behalf of the investor and generally fulfilling the objectives and purposes of the Portfolio (including facilitating the payment of agreed charges on behalf of the Investor to their Financial Adviser). This authority will automatically terminate upon the death of the Investor.

4.4 The Investment Manager shall not, except as expressly provided in this Investor Agreement or unless otherwise authorised, have any authority to act on behalf of, or in respect of, the Investor or to act as agent of the Investor.

## 5. Subscriptions

5.1 In respect of the Portfolio:

5.1.1 Subscriptions must be made to ensure the Investment Amount (being the sum net of Financial Adviser and Distribution Fees) is not less than £5,000 made up of multiple transfers, single gross lump sum of £1,000 and single gross contributions of £50 per month and there is no maximum investment.

5.1.2 The Investment Manager reserves the right not to proceed with managing the Portfolio, in which case the Investment Manager shall treat the Investor's Subscription as being subject to a Redemption Request validly received in accordance with clause 6, and this Investor Agreement will be terminated.

5.1.3 In order to subscribe the Investor shall:

(a) deliver to the Investment Manager the relevant completed Application Form;

(b) make payment of the Subscription as directed in the Brochure and Application Form; and

(c) where applicable, provide to the Administrator and Custodian such information and documentation to allow the Administrator and Custodian to satisfy its anti money laundering requirements in respect of the Investor.

5.2 The Investment Manager or the Administrator & Custodian is entitled to reject any Application Form.

5.3 Once the Investment Manager notifies an Investor that their Application Form is accepted then, the payment of the Subscriptions hereunder shall be irrevocable if outside the fourteen (14) calendar day cancellation period and immediately if such period has been waived, and such Investor shall not under any circumstances be able to demand repayment of their Subscription.

In the event that an Application Form is not accepted then any Subscription paid by such Investor to the Investment Manager shall be returned to the relevant Investor (after deduction of any costs in respect of returning such Subscription incurred in respect of such Investor) and on the date of return such person shall cease to be a Party to this Investor Agreement for the purposes of receiving benefits and/or enforcing rights.

5.4 The Investor may only terminate this Investor Agreement pursuant to clause 17 below.

## 6. Encashment

6.1 The Investor may make an Encashment Request at any time, subject to a minimum of £1,000.

The Investment Manager will endeavour to return Encashment Proceeds by no later than 2 weeks following the receipt of an Encashment Request.

6.2 Any Encashment Request must be made in writing to the Investment Manager stating the amount the Investor wishes to redeem. An Encashment Request, once served, is irrevocable.

## 7. Investment Return Objectives and Restrictions

7.1 In managing the Portfolio, the Investment Manager shall at all times have regard to and comply with:

(a) **Hilbert Protect 90** is an MPS that aims to grow your assets and limit the downside risk by protecting up to 90% of the money that you invest with us. You can have access to the fund whenever you like as there is no lock-in period. You can receive your money back in the form of an income, a lump sum or a combination of the two options

(b) ETFs issued by BlackRock. **Hilbert Protect 90** also uses BlackRock Asset Allocation guidance to provide optimal asset class exposure to grow the value of your assets.

7.2 The Investment Manager will seek to establish and maintain a diverse range of ETFs.

There is no minimum or maximum number of ETFs in which the Investment Manager will invest. Portfolios benefit from a protection of each individual portfolio at 90% of each contribution. This protection is provided by the Investment Manager. The Investment Manager is covered by an insurance policy taken out with a primary insurance company part of the Munich Re Group (to assist the Investment Manager to meet their financial liabilities towards the investor).

7.3 No monies shall be borrowed for the account of the Investor's Portfolio.

7.4 The Investment Manager will not take into account an Investor's capital gains position when effecting transactions on their behalf.

## 8. Terms Applicable to Dealing

8.1 In effecting transactions in the Portfolio, the Investment Manager will act in accordance with the FCA Rules.

8.2 Where relevant, it is agreed that all transactions will be effected in accordance with the rules and regulations of any relevant market, exchange or clearing house (and the Investment Manager shall take all such steps as may be required or permitted by such rules and regulations and/or by good market practice) through which transactions are executed and to all Applicable Laws so that:

(a) if there is any conflict between the provisions of this Investor Agreement and any such rules, customs or Applicable Laws, the latter shall prevail; and

(b) action may be taken as thought fit in order to ensure compliance with any such rules, customs or Applicable Laws. Transactions in new ETFs will be effected on the best commercial terms that can be secured.

8.3 Subject to the FCA Rules, transactions may be aggregated with those for other customers of the Investment Manager and its members, directors, employees and Associates and their employees and, if so, any Investments made pursuant to such transactions will be allocated

on a fair and reasonable basis in accordance with the FCA Rules and endeavours will be made to ensure that the aggregation will work to the advantage of each Investor, but an Investor should be aware that the effect of aggregation may work on some occasions to an Investor's disadvantage.

8.4 Subject to both the FCA Rules and the Investment Manager's policy on the management of conflicts of interest, the Investment Manager may make use of soft commission arrangements in respect of transactions undertaken for the Portfolio as may be disclosed to the Investor from time to time.

8.5 The Investment Manager will act in good faith and with due diligence in its choice and use of counterparties but, subject to this obligation and to the FCA Rules, shall have no responsibility for the performance by any counterparty of its obligations in respect of transactions effected under this Investor Agreement.

8.6 As detailed in clause 3.3, the Investment Manager shall take reasonable steps to obtain the best possible result when making Investments. This duty of best execution is owed by the Investment Manager only when the Investment Manager has contractual or agency obligations to the Investor.

## Risks

The risk associated with your investment will be dependent on your chosen investment option.

- If you ask us to pay Adviser Charges from your Portfolio Account your investments will grow at a slower rate than if you had not. If you request these to be paid from Protected Investments, the likelihood that the Protection will increase through the lock-in of fund performance will reduce. The higher the level of Adviser Charges paid, the greater their impact.

In exceptional circumstances we may have to delay making a payment to you, or carrying out an instruction from you to switch your money between funds.

This could be due to adverse market conditions or where it would lead to the unfair treatment of you or others. Following any delay, transactions will be carried out at the price applicable after the deferred period, which will mean that the price will be different from the price when you first instructed us.

Inflation can reduce the value of your investment and income payments.

**Risks specific to withdrawing income:**

- If you take an income from **MPS Protect 90** Portfolio, this will reduce your fund value.
- If you take an income, the income you receive may be lower than the amount you could have received from a Lifetime Annuity.
- Lifetime Annuity rates change, and there is no guarantee that they will remain at their current levels, should you decide to purchase a Lifetime Annuity in the future.
- The level of income you can withdraw is not guaranteed and the overall amount you are able to take will depend on the value and performance of the investments you hold in your plan.
- If your investments perform poorly or you take too much income, your income may run out if you do not adjust the level of income you take.

**Cash Protection:**

Cash protection can occur in extreme stock market conditions, or where markets continue to fall progressively over time. If it should occur, we will notify the client in writing with details of alternative investment options available.

**Performance Note:**

Remember, past performance is not a guide to the future performance. The capital values and the income received can fall as well as rise. Income yield figures may vary and are not guaranteed. Where a fund holds assets in other currencies there can be extra risks from exchange rate fluctuations.

**9. Custody**

9.1 Your Securities will be held in a safe custody account with the Custodian, and documents of title, if any, will be kept in the safe custody of the Custodian. The Investment Manager may, at its reasonable discretion, agree to such alternative custodial arrangements as it may determine from time to time without notice to you. Such documents of title shall not be lent to any third party and money may not be borrowed on your behalf against the security of those documents.

9.2 Unless alternative custodial arrangements are agreed, your Securities will be held collectively in an account with the Custodian and, although the amount of Securities that you hold will be recorded and separately identified by the Investment Manager, your holding may not be identifiable by separate documents or certificates of title. Therefore, in the event of default, any shortfall in the Securities may be shared pro rata among all Members in the Portfolio whose Securities are held with the Custodian.

9.3 Investments or title documents may not be lent to a third party and nor may there be any borrowing against the security of the Investments or such title documents.

9.4 An Investment may be realised in whole or in part, in order to discharge an obligation of the Investor under this Investor Agreement, for example in relation to payment of fees, costs and expenses.

9.5 The cash balance held for an Investor will be held in a Cash Settlement Account or ISA Cash Accounts and will be deposited with an authorised banking institution in a Client Money Bank Account, together with cash balances belonging to other investors and customers of the Administrator and Custodian. Cash balances will not be actively managed and will only attract the interest rates (if anything) applicable to Cash Settlement Accounts or ISA Cash Accounts. Any interest will be retained by Hilbert Investment Solutions.

9.6 Unclaimed money: In accordance with applicable Law,

you consent to us releasing the balance of any unclaimed money which we hold on your behalf from our client money bank account and paying the balance to a registered charity of our choice, in which case we will no longer treat it as client money, where:

(a) we have been unable to trace you, after taking reasonable steps to contact you as required by the FCA CASS Rules, where we will attempt to contact you at your last known address and will give you at least 28 days from the date of our notification to you of our intention to cease to treat the balance as client money to make a claim; and

(b) the balance on the account is £25 or more and there has no movement on your balance for at least 6 years (except for our periodic charges or debit or credit interest).

Where we do this, however, we agree to make good any valid claim made by you on your behalf against any balances we treat in this way where you have provided evidence to support your claim.

Unclaimed assets: If we have received no instructions in respect of your Assets which we hold in safe custody for a period of at least 12 years (notwithstanding any receipts of dividends or similar items), and we have been unable to contact you having taken reasonable steps in accordance with the FCA CASS Rules to trace you and return such Assets, (which will include us attempting to contact you at your last known address and giving you at least 28 days from the date of our notification to you of our intention to cease to treat the balance as custody Assets to make a claim) we may decide to:

(i) liquidate any such Assets at market value and pay away the proceeds;

(ii) pay away any such Assets, in either case to a registered charity of our choice.

Where we do this, however, we will unconditionally agree to pay you a sum equal to the value of the relevant custody Assets at the time they were liquidated or paid away, in the event you seek to claim the custody Assets where you have provided evidence to support your claim.

However, where the balance is under £25 and we have taken the steps required by the FCA CASS Rules to contact you, we may stop treating the balance as client money and donate it to a registered charity of our choice but we will not make good any claim by you against the balance.

## 10. Reports and Information

10.1 The Investment Manager shall provide the Investor with a report relating to their Portfolio, complying with the FCA Rules, every 3 months, in respect of, and within 45 calendar days of, the periods ending on 31st January, 30th April, 31st July and 31st October.

The reports will also include any interest and income credited to the Portfolio, fees charged and transaction effected within the period.

10.2 Contract notes will be provided for each transaction effected on behalf of the Investor's Portfolio.

10.3 The Investment Manager shall supply (or arrange for the Administrator and Custodian to supply) such further information which is in its possession or under its control as the Investor may reasonably request as soon as reasonably practicable after receipt of such request.

10.4 Any statements, reports or information provided to the Investor will state the basis of any valuations of Investments provided.

## 11. Fees and Expenses

11.1 The Investment Manager and the Administrator and Custodian shall receive fees for their services, and reimbursements of their costs and expenses, as set out in the Fees and Charges Section of the Managed Portfolio Service Document.

11.2 The Investment Manager may make, or procure the making of facilitation payments in respect of charges which the Investor has authorised with their Financial Adviser on their behalf as detailed in the Managed Portfolio Service Document and the Application Form.



11.3 All costs and expenses are stated exclusive of VAT, if applicable.

## 12. Management and Administration Obligations

12.1 The Investment Manager shall:

12.1.1 devote such time and attention and have all necessary competent personnel and equipment as may be required to enable it to provide the services to be performed by it properly and efficiently, and in compliance with the FCA Rules; and

12.1.2 use reasonable skill and care in the provision of the services to be performed by it.

12.2 the Investment Manager shall act in good faith and shall use due diligence in delegating or subcontracting the provision of any of their services, and in reviewing the ongoing delegation or sub-contracting, provided that in relation to any services delegated in accordance with clause 12.2:

12.2.1 the Investment Manager shall remain liable for all acts and omissions of any Associate as if they were of the Investment Manager; and

12.2.2 To the extent provided in the FCA Rules, the Investment Manager shall not be liable for the acts and omission of any party that is not an Associate.

## 13. Obligations of the Investor

13.1 The Investor confirms that the information stated in the Application Form is true and accurate as at the date of this Investor Agreement.

13.2 The Investor must immediately inform the Investment Manager in writing of any change of tax status, other material change in circumstance or any change in the information provided in the Application Form.

13.3 The Investor must provide the Investment Manager with any information which it reasonably requests for the purposes of managing the Portfolio pursuant to the terms of this Investor Agreement.

## 14. Delegation and Assignment

14.1 Without prejudice to any other terms and conditions of this Investor Agreement, the Investment Manager may employ or otherwise appoint agents and advisers and other persons (together Associates of the Investment Manager), to perform any services to assist the Investment Manager in performing its services and may rely on advice from any agent or advisers or other such persons, without liability itself, provided that it will act in good faith and with due diligence in the selection, use and monitoring of such persons.

The Investment Manager will remain directly responsible to the Investor for all acts and omissions of an Associate as if they were that of the Investment Manager.

14.2 The Investment Manager may assign this Investor Agreement to any appropriately authorised and regulated party, such assignment being effective upon advance written notice of 28 calendar days being provided to the Investor. This Investor Agreement is personal to the Investor and may not be assigned by the Investor without prior written consent of the Investment Manager. In the event of the Investor's death, the Investment Manager will continue to deal with the Investor's personal representatives.

## 15. Potential Conflicts of Interest and Disclosure

15.1 The Investment Manager may provide similar services or any other services whatsoever to any customer and the Investment Manager shall not, in any circumstance, be required to account to the Investors for any profits earned in connection therewith.

So far as is deemed practicable, the Investment Manager will use all reasonable endeavours to ensure fair treatment as between the Investors and such customers in compliance with the FCA Rules. For the avoidance of doubt this clause excludes Associates of the Investment Manager.

15.2 The Investment Manager is required by FCA Rules to establish, implement and maintain a conflicts of interest policy. A copy of this policy will be provided on request.

The Investment Manager's conflicts of interest policy sets out the types of actual or potential conflicts of interest which affect the Investment Manager.

15.3 The Investment Manager or any persons connected with the Investment Manager may hold an investment within the Portfolio or outside the Portfolio, in ETFs held as part of the Portfolio.

15.4 The Investment Manager may, subject to FCA Rules and without prior reference to the Investors, effect transactions in which it has, directly or indirectly, a material interest or a relationship of any description with another party, which may involve a potential conflict with its duty to the Investors. The Investment Manager shall be liable to account to the Investors for any profit, commission or remuneration made or received from or by reason of such transactions or any connected transactions. For example, such potential conflicting interests or duties may arise because:

- (a) the Investment Manager provides investment services to other clients;
- (b) the transaction is in securities issued by an Associate;
- (c) the Investment Manager deals on behalf of the Investor with an Associate;
- (d) the Investment Manager may act as agent for the Investors in relation to a transaction in which it is also acting as agent for the account of other customers and Associates;
- (e) the Investment Manager may, in exceptional circumstances, effect transactions as principal in respect of a transaction for the Investor;

(f) the Investment Manager may have regard, in providing the Managed Portfolio Service to the relative performance of other investments under its management; or

(g) the transaction is in securities in respect of which the Investment Manager, or a member, partner or employee of the Investment Manager or an Associate or its employees, is contemporaneously trading or has traded on its own account or has either a long or short position.

## 16. Liability

16.1 Nothing in this clause 16 shall exclude any duty or liability owed by the Investment Manager under the FCA Rules.

16.2 The Investment Manager shall not be liable for any loss to the Investor arising from any investment decision made in accordance with the investment return objectives and the investment restrictions set out in the Portfolio Summary Documents, or for any other action in accordance with this Investor Agreement, except to the extent that such loss is directly due to the negligence or willful default or fraud of the Investment Manager, its Associates or any of its or their partners, members, directors or employees.

16.3 Subject to clauses 8.5, 12.2 and 14, the Investment Manager shall not be liable for any defaults of any counterparty, agent, banker, administrator, custodian, nominee or other person or entity which holds money, investments or documents of title, other than where such party is an Associate.

16.4 In the event of any failure, interruption or delay in the performance of the Investment Manager's, an Associate's or any of its agents', delegates' or subcontractors' obligations resulting from acts, events or circumstances not reasonably within its or their control or breakdown, failure or malfunction of any telecommunications or computer service or systems, the Investor acknowledges that neither the Investment Manager nor its agents,

delegates or subcontractors, as appropriate, shall be liable or have any responsibility of any kind for any loss or damage thereby incurred or suffered by the Investor.

16.5 The Investment Manager gives no representations or warranty as to the performance of the Portfolio.

Investors should consider the suitability of the investment return objectives and restrictions set out in the relevant Portfolio Summary Document and also note the risk warnings set out in the Service Brochure. Nothing in this clause 16 shall exclude the liability of the Investment Manager for its own negligence or fraud.

## 17. Termination

17.1 The Managed Portfolio Service has no automatic termination date but the Investment Manager may set a date, of which it shall give not less than six months' written notice to the Investor, on which it will terminate. The Investment Manager will seek to sell Investments in the ETFs and to liquidate each Investor's Portfolio in an orderly fashion. On termination of the Managed Portfolio Service, any proceeds realised from the sale of the Investments will be paid to the Investor.

17.2 An Investor is entitled to make Encashment Requests at any time by providing a Encashment Request, subject to a minimum amount of £1,000. The Investment Manager will have a lien on all Investments being redeemed from the Portfolio and shall be entitled to dispose of some or all of the same and apply the sale proceeds in discharging any liability of the Investor to the Investment Manager and Administrator and Custodian. This Agreement shall terminate upon the completion of a full Encashment Request from the Managed Portfolio Service, upon which the Investment Manager will liquidate the Investor's Portfolio.

The resulting cash balance will then be passed to the Investor.

17.3 If:

(a) the Investment Manager gives to the Investor not less than three months' written notice of its intention to terminate its role as Investment Manager under this Investor Agreement; or

(b) the Investment Manager ceases to be appropriately authorised by the FCA or other such equivalent regulatory body, or becomes insolvent; the Investment Manager shall endeavour to make arrangements to transfer the Investments to another Investment Manager, in which case that Investment Manager shall assume the role of the Investment Manager under this Investor Agreement, failing which this Investor Agreement shall terminate forth with and, subject to clause 16, the Investments held for the Investor shall be re-registered into the Investor's name or as the Investor may otherwise direct.

## 18. Consequences of Termination

18.1 On termination of this Investor Agreement pursuant to clause 17, the Investment Manager will use reasonable endeavours to complete all transactions in progress at termination expeditiously on the basis set out in this Investor Agreement.

18.2 Termination will not affect accrued rights, existing commitments or any contractual provision intended to survive termination and will be without penalty or other additional payments. The Investor will pay fees, expenses and costs properly incurred by the Investment Manager, its Associates and delegates up to and including the date of termination and payable under the terms of this Investor Agreement.

18.3 On termination, the Investment Manager may retain and/or realise such Investments as may be required to settle transactions already initiated and to pay the Investor's outstanding liabilities, including fees, costs and expenses payable under clause 11.

18.4 Clauses 16 and 19 shall survive the termination of this Investor Agreement.

## 19. Confidential Information

19.1 Neither the Investment Manager nor the Investor shall disclose to third parties or take into consideration for purposes unrelated to the Portfolio information either:

- (a) the disclosure of which by it would be or might be a breach of duty or confidence to any other person; or
- (b) which comes to the notice of a partner or member of or an employee, officer or agent of the Investment Manager or of any Associate but does not properly come to the actual notice of that party providing the Managed Portfolio Services under this Investor Agreement.

19.2 The Investment Manager will at all times keep confidential all information of the Investor acquired in consequence of the Managed Portfolio Services, except for information which:

- (a) is in the public knowledge; or
- (b) which they may be bound to disclose under compulsion of law; or
- (c) is requested by regulatory agencies; or
- (d) is given to their professional advisers where reasonably necessary for the performance of their professional services; or
- (e) which is authorised to be disclosed by the relevant party; and shall use reasonable endeavours to prevent any breach of this clause 19.2.

19.3 The Investment Manager will procure that any agent or delegate, which is an Associate appointed by it will observe and comply with the provisions of clauses 19.1 and/or 19.2.

## 20. Complaints and Compensation

20.1 The Investment Manager has established procedures in accordance with the FCA Rules for consideration of complaints. Details of these procedures are available on request.

Should an Investor have a complaint, he should contact the Investment Manager. If the Investment Manager cannot resolve the complaint to the satisfaction of the Investor, the Investor may be entitled to refer it to the Financial Ombudsman Service.

The Financial Ombudsman can be contacted at:

### Financial Ombudsman Service

Exchange Tower  
London, E14 9SR

**Telephone Number** 0800 023 4567

### Email

[complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk)

### Website

[www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)

20.2 The Investment Manager and Administrator and Custodian participates in the Financial Services Compensation Scheme (FSCS), established under the Financial Services and Markets Act 2000 (as amended), which provides compensation to eligible investors in the event of a firm being unable to meet its liabilities.

Payments under the protected investment business scheme are currently limited to a maximum of the first £85,000 of the claim. Further information is available from the Investment Manager or the FSCS at [www.fscs.org.uk](http://www.fscs.org.uk).

## 21. Notices, Instructions and Communications

21.1 Notices of instructions to the Investment Manager should be in English and in writing and signed by the Investor, except as otherwise specifically indicated. Notices should be sent to **Hilbert Investment Solutions Ltd, St Clements House, 27-28 Clements Lane, London, EC4N 7AE** (or such other postal address notified to the Investor for this purpose).

21.2 The Investment Manager, its Associates or any of its or their agents may rely and act on any instruction or communication which purports to have been given by persons authorised to give instructions by the Investor under the Application Form or subsequently notified by the Investor from time to time and, unless that relevant party receives written notice to the contrary, whether or not the authority of such person shall have been terminated.

21.3 All communications to the Investor shall be in English and will be sent (whether postal or electronic) to the latest address notified by the Investor to the Investment Manager and shall be deemed received by the Investor on the second day after posting or on the day after dispatch in the case of electronic communication.

All communications by the Investor shall be made in writing or (as otherwise provided) shall be made by telephone to the Investment Manager, in which case conversations may be recorded for the avoidance of any subsequent doubt.

Communications sent by the Investor will be deemed received only if actually received by the Investment Manager.

The Investment Manager will not be liable for any delay or failure of delivery (for whatever reason) of any communication sent to the Investor.

## 22. Unsolicited Real-time Financial Promotions

The Investment Manager may communicate an unsolicited real-time financial promotion (i.e. interactive communications such as a telephone call or electronic mail promoting Investments) to the Investor.

## 23. Amendments

23.1 The Investment Manager may amend the terms and conditions in this Investor Agreement by giving the Investor not less than twenty business days' written notice.

23.2 The Investment Manager may also amend these terms by giving the Investor written notice with immediate effect if such is necessary in order to comply with the FCA Rules or other statutory or regulatory requirements.

## 24. Data Protection

### Disclosure of information and Data Protection:

(a) The EU General Data Protection Regulation ("GDPR") and the Data Protection Act 2018 (DPA 2018) provide the current legal framework for the protection of personal data in the UK.

All references to 'Data Protection Law' in the following clauses under this heading mean the GDPR and DPA 2018 or any other applicable law or regulation.

(b) The Data Protection Law governs the use of personal data by businesses and other organisations. In order to fulfill our agreement with you to provide products and services we need to collect, use, share and store personal data about you and your transactions.

(c) Personal data means information that relates to you and from which you can be identified, such as your name, address, telephone number, or date of birth.

It may also include information about your financial affairs and transactions. The personal data may also include 'sensitive personal data' as defined in the Data Protection Law (for example, information relating to criminal records).

(d) The personal data collected by us in our capacity as the Investment Manager may be obtained from you directly, or from third parties, such as employers, credit reference agencies (who may search the Electoral Register), fraud prevention agencies or other parties associated with you, when you apply for any product or service, or which you or they give to us at any other time.

**In our capacity as Investment Manager we will use your personal data to provide:**

- Our services and products;
  - Process and store your application;
  - Understand your requirements;
  - Manage your accounts;
  - Provide you with periodic statements of your investment;
  - Prevent and detect fraud, money laundering and other crime;
  - To carry out regulatory checks;
  - To meet our obligations to any relevant regulatory authority;
  - To undertake analysis of our business;
  - And to develop and improve our services to you and to protect our legitimate interests.
- (f) We will take appropriate measures to keep your personal data secure and confidential.
- (g) You must notify the Investment Manager of changes to your data.
- (h) We may disclose your personal data to the following third parties:
- Our employees, consultants, and professional advisers; successors-in-title to, and potential purchasers and investors in, all or part of our business;
  - Associated Companies (as defined in Section 416 of the Income and Corporation Taxes Act 1988) to process this application; your financial adviser by email or other means; you if you ask in accordance with your rights under a 'Data Subject Access Request'; licensed credit reference and/or fraud prevention agencies to help make financial decisions during the application and on an ongoing basis.

- This information will be used to decide whether to continue to make products and services available to you. Our enquiries or searches may be recorded and credit reference agencies may supply us with financial information; contractors who provide a service to us or are acting as our agents, on the understanding that they will keep the personal data confidential and secure; and/or other third parties where we are under a legal or regulatory obligation to do so, for example where we are required to share information with the FCA, HMRC, or any other regulatory body.

(i) We may collate, process and share statistics based on an aggregation of information we hold. No individuals will be identifiable from the resulting analysis.

(j) Where you provide us with the personal data of a third party (for example, about another individual in your household), you confirm that you have obtained their consent prior to disclosing that personal data to us.

(k) We may transfer your information to other countries, including countries outside the European Economic Area which may not have laws which provide the same level of protection to personal data as provided in the Data Protection Law. Where we do so we will ensure that such transfers are compliant with the Data Protection Law and that appropriate security measures are put in place.

(l) From time to time we may change the way we use your personal data.

Where we believe you may not reasonably expect such a change we will contact you by email or other means to notify you of the change.

(m) If you terminate your relationship with us we will retain the personal data we have collected on you for as long as permitted by Data Protection Law or as required by other legal and regulatory obligations.

(n) You can request a copy of the personal data that we hold about you at any time by contacting the Data Protection Officer at **Hilbert Investment Solutions, St Clements house, 27-28 Clements Lane, EC4N 7AE** or [contact@hilbert-is.com](mailto:contact@hilbert-is.com).

(o) You also have the right to have any of your personal data corrected if it is factually incorrect. For further information on your rights under Data Protection Law, including the right to have your data deleted and/or corrected, you can contact us as above, or visit the Information Commissioner's Office website at [www.ico.gov.uk](http://www.ico.gov.uk).

## 25. Entire Agreement

This Investor Agreement, together with the Application Form, comprises the entire agreement of the Investment Manager with the Investor relating to the provision of the Managed Portfolio Service.

## 26. Rights of Third Parties

A person who is not a party to this Investor Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Investor Agreement, but this does not affect any right or remedy of such third party which exists or is available apart from that Act.

## 27. Severability

If any term, condition or provision of this Investor Agreement shall be held to be invalid, unlawful or unenforceable to any extent, such term, condition or provision shall not affect the validity, legality or enforceability of the remainder of this Investor Agreement.

## 28. Governing Law

This Investor Agreement and all matters relating thereto shall be governed by and construed in accordance with English Law and the parties submit to the exclusive jurisdiction of the English Courts.

## 29. Additional Terms for Stocks and Shares ISAs

29.1 The ISA Manager is **Hilbert Investment Solutions, St Clements House, 27-28 Clements Lane, London, EC4N 7AE**. Hilbert Investment Solutions is Authorised and Regulated by the Financial Conduct Authority.

29.2 The ISA Manager will administer the ISA in accordance with the Individual Savings Account Regulations 1998 ("the Regulations") or as subsequently amended. In the case of any inconsistency between these Terms and Conditions and the provisions of the Regulations, the provisions of the Regulations will prevail. Failure to meet the obligations under the Regulations may cause the ISA to be void or need to be remedied by repair. Any such liability arising from the ISA being void or repaired will be borne by the investor.

29.3 The maximum amount that may be invested in a ISA is subject to limits set by HMRC for any particular tax year and this limit may change from one tax year to the next. Should the investor invest more than the rules allow then the ISA will be void or need to be remedied by repair. The ISA Manager will notify the investor if by reason of any failure to satisfy the provisions of the Regulations a ISA has or will become void.

29.4 The ISA will commence from the date the application and subscription are received by the ISA Manager.

29.5 Investments in the ISA will be held by the ISA Manager's Administrator and Custodian for and on behalf of the beneficial ownership of the investor and must not be used as security against any loan. Cash will be held by the ISA Manager as trustee and in accordance with the rules of the Financial Conduct Authority.

Investors should note that as a consequence ISA investments are pooled with those relating to one or more other investors.

29.6 The ISA Manager may delegate any of the related functions or responsibilities, having been satisfied that anyone to whom such functions or responsibilities are delegated is competent to carry out the functions and responsibilities of this Agreement.

This may specifically involve the use of an eligible custodian where investments may not always be held by the ISA Manager's Administrator and Custodian directly. At the investor's request the ISA Manager will provide the investor with a list of eligible custodians used in this regard.

The investor should note that the use of such eligible custodians may not provide the investor with the same level of regulatory protection as is offered in the UK. There could be instances of different settlement, legal and regulatory requirements in relation to the separate identification of investments registered in this way. In the event of default by such an eligible custodian the ISA Manager will only accept responsibility for losses arising from fraud, willful default or negligence on the part of the ISA Manager.

29.7 The investor authorises the ISA Manager to provide HMRC with all particulars of the ISA and its investments. The ISA Manager will make claims on behalf of the investor, liabilities for and relief from tax in respect of the ISA.

29.8 The ISA Manager will provide the investor with an annual valuation of the ISA as at 5th April each year, together with a report of all transactions and cash movements that have occurred during the previous 12 month period.

29.9 The investor has the right to transfer in, part or all of an existing ISA from another ISA Manager or request that the investments within the ISA be transferred out to another ISA Manager.

Such a transfer out to another ISA Manager will attract a charge per individual investment as detailed in the Fees and Charges section of the Managed Portfolio Service document.

All fees (including a pro-rata annual fee) and charges due up to the point of completion of the transfer out instruction must be paid to the ISA Manager.

29.10 During a cash transfer, funds will not be invested in the stock market. The ISA Manager accepts no responsibility for any potential or actual loss that the investor claims has occurred in such circumstances.

29.11 The ISA may be terminated by the investor giving the ISA Manager notice in writing, requesting the ISA Manager to either transfer all investments to the investor or to sell the investments and remit the resulting proceeds to the investor. Termination of the ISA will be effective when written notice is received by the ISA Manager and all benefits and relief from tax will cease immediately. All fees (including a pro-rata annual fee) and charges due up to the point of termination of the ISA must be paid.

29.12 The ISA Manager may at its absolute discretion, terminate the ISA by giving one month's notice in writing to the investor.

29.13 If an investor dies the account will continue to be treated as an ISA until either:

- Your executor closes it.
- The administration of your estate is completed.

Otherwise, your ISA will be closed 3 years and 1 day after you die. There will be no Income Tax or Capital Gains Tax to pay up to that date, but ISA investments will form part of your estate for Inheritance Tax purposes.

29.14 All transactions in the ISA will be effected under the Rules and Regulations of the London Stock Exchange or other applicable exchange, the Financial Conduct Authority or other regulatory bodies as applicable.

29.15 Any overdrawn debit positions occurring in the ISA will be addressed by the Investment Manager via the sale of sufficient stock to cover the debit balance.



29.16 The investor may make an Additional Permitted Subscription into their ISA by completing the relevant form each time an Additional Permitted Subscription is made.

29.17 The Additional Permitted Subscription must not exceed the combined value of the investor's spouse or civil partner's ISA which they held at the date of their death. The combined value includes any income accrued, but not paid or credited to the ISA at the date of death.

29.18 The investor may make several Additional Permitted Subscriptions. However, these must not, in aggregate, exceed the combined value of the investor's spouse or civil partner's ISA as at the date of death.

29.19 Any application to make an Additional Permitted Subscription must be made in accordance with all of the requirements set out in the ISA Regulations. This includes any prescribed timescales.

29.20 The ISA Manager will not accept any Additional Permitted Subscription where it knows or suspects that the information provided by the investor is incorrect, false or does not satisfy any of the requirements set out in the ISA Regulations.

**Hilbert Investment Solutions**

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44 (0) 203 808 7138

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