

1. DEFINITIONS

1.1 In this Agreement, the following words shall have the following meanings.

- “Agreement”** means the Order Form, these Software As A Service Terms and Conditions and the schedule(s) hereto, together with any amendments thereto agreed by the parties in accordance with clause 14.3;
- “Charges”** means the Licence Fee and any other charges payable by the Client for the Services under this Agreement, including those set out in the Order Form;
- “Client Content”** means all files, comments, data, website links, information or other material provided or made available by or on behalf of the Client, its affiliates (where permitted) or any User (including any content owned by a third party) in connection with the Use of the Software Service or otherwise accessed and/or processed using the Software Service;
- “Data Protection Laws”** all applicable data protection and privacy legislation as applicable and binding on the Client, and With Intelligence including but not limited to the General Data Protection Regulation (EU) 2016/679 (“GDPR”) and the UK version of the GDPR (“UK GDPR”); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended;
- “Data Subject Request”** means a request made by a data subject to exercise any rights of data subjects under Data Protection Laws;
- “Effective Date”** means that date specified in the Order Form;
- “E-mail Policy”** means the policy attached at Schedule 5 hereunder;
- “E-mail Provider”** means SendGrid Inc and its holding company, Twilio Inc or any other provider appointed by With Intelligence to perform a similar service;
- “Fault”** means an acknowledged cessation or interruption in the usual functionality of the Software Service;
- “Fault Severity Levels”** means:
- (a) **“Severity Level 1”** means a catastrophic problem with the Software Service which renders the Client unable to Use the Software Service;
 - (b) **“Severity Level 2”** means a severe problem with the Software Service which causes serious disruption to Client’s Use of the Software Service;
 - (c) **“Severity Level 3”** means a moderate problem with the Software Service which causes the Software Service not to operate as intended but having only a moderate impact on Client’s Use of the Software Service and which can be temporarily solved by a Workaround;

- (d) **“Severity Level 4”** means a minor problem or general query with the Software Service which can be temporarily solved by a Workaround;
- “GDPR”** means the General Data Protection Regulation (EU) 2016/679;
- “Initial Term”** shall have the meaning given to that term in clause 8.1 of this Agreement;
- “Intellectual Property Rights”** means all intellectual property rights, including patents, utility models, trade and service marks, trade names, domain names, right in designs, copyrights, moral rights, topography rights, rights in databases, trade secrets and know-how, in all cases whether or not registered or registrable and including registrations and applications for registration of any of these and rights to apply for the same, and all rights and forms of protection of a similar nature or having equivalent or similar effect to any of these anywhere in the world;
- “Licence Fee”** means the non-refundable fee payable by the Client in respect of the Use of the Software Service granted by With Intelligence hereunder, as set out in the Order Form;
- “Minimum Number”** means the minimum Permitted Number the Client must hold throughout the Term, as set out in the Order Form;
- “Order Form”** the signed order form to which these FolioMetrics Software as a Service Terms and Conditions are attached or incorporated by reference and which specifies the Services which will be provided by With Intelligence;
- “Permitted Number”** means the permitted number of Users of licenses for which Licence Fees have been received by With Intelligence, as set out in the Order Form and which may be adjusted in accordance with the terms of this Agreement;
- “Personal Data Breach”** means any breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, any Protected Data;
- “Protected Data”** means personal data received from or on behalf of the Client in connection with the performance of With Intelligence obligations under this Agreement;
- “Professional Services”** means any configuration, consultancy, training and/or other services performed by With Intelligence for the Client under this Agreement, as stated in the Order Form or otherwise agreed in accordance with clause 2.2;
- “Provider Software”** shall have the meaning at clause 13.1;
- “Renewal Term”** shall have the meaning given to that term in clause 8.1 of this Agreement;
- “Response Time”** means the elapsed time during the Support Hours between (i) With Intelligence logging of a problem reported by the Client and (ii) a With Intelligence technical support analyst capable of understanding the problem speaking to Client’s support contact about the problem;

“Sensitive Data”	means: (a) data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership, genetic data, biometric data, data concerning health or data concerning a natural person's sex life; and (b) any other information that falls within the definition of "special categories of data" under Data Protection Laws or any other applicable law relating to privacy and data protection;
“Services”	means together the Software Service, Support and any Professional Services;
“Services Schedule”	means Schedule 1 to this Agreement;
“Software Service”	means the provision by With Intelligence of the software service described in the Services Schedule and the Order Form;
“Sub-processor”	means another data processor engaged by With Intelligence (or any of its subsidiaries) for carrying out processing activities in respect of the Protected Data on behalf of the Client;
“Support”	means the provision of support and maintenance by With Intelligence in respect of the Use and operation of the Software Service in accordance with clause 5;
“Support Hours”	means the hours of 0900 – 1800 during any Working Day;
“Technical Requirements”	means the technical specification (which may include software, hardware and/or other facilities) required to Use the Software Service, as set out in Schedule 2;
“Term”	means the Initial Term and any further Renewal Terms thereafter in accordance with clause 8.1;
“Use”	means use of the Software Service to serve the Client's internal business purpose only, in accordance with the restrictions set forth herein;
“User”	means each individual user whom the Client permits to Use the Software Service in accordance with the terms and conditions hereof;
“Workaround” or “Temporary Fix”	means a change advised by With Intelligence in the procedures to be followed by Client to avoid a Fault without significantly impairing performance of the Software Service;
“Working Day”	means Monday to Friday, excluding bank and public holidays, in the United Kingdom.

1.2 Clause headings are inserted for ease of reference only and shall be given no effect in the construction of this Agreement. Words and phrases indicating the singular shall, where the context so admits, include the plural and vice versa.

1.3 Any reference to “in writing” shall include by e-mail.

2. PROFESSIONAL SERVICES

2.1 The Professional Services shall be performed with reasonable skill and care in a manner consistent with generally accepted standards for identical or similar services. With Intelligence shall use reasonable endeavours to perform the Professional Services in accordance with any

timescales agreed between the parties, but any start or completion dates for the Professional Services are estimates and provided for information only.

- 2.2 With Intelligence and the Client may from time to time mutually agree to additional Professional Services beyond the scope set out in the Services Schedule in writing or by e-mail, which shall be subject to the terms and conditions set out in this Agreement. Unless otherwise agreed by both parties in writing or by e-mail, the Charges for additional Professional Services shall be calculated on a time and materials basis at With Intelligence's then current rate, payable by the Client in accordance with clause 7.

3. SOFTWARE SERVICE

- 3.1 Subject to all the terms and conditions of this Agreement and payment of the Licence Fee, With Intelligence hereby grants Client a non-exclusive, non-transferable, non-sub-licencable, right to Use the Software Service for the Term in accordance with the Permitted Number and for the avoidance of doubt, this right is in respect of Use of the Software Service by the Client and its Users only and no subsidiaries or holding company of the Client may Use the Software Service.
- 3.2 The Client shall, and procure that each User shall, Use the Software Service only in accordance with the terms of this Agreement. The Client shall be responsible for all use of the Software Service by Users and shall be liable for breach of this Agreement by a User as if it were a breach by the Client.
- 3.3 All customisations, updates and enhancements in respect of the Software Service created and/or delivered pursuant to any Professional Services shall be deemed to be part of the Software Service licensed hereunder, and ownership thereof shall vest in With Intelligence absolutely upon creation.
- 3.4 Subject to payment of an additional Licence Fee and to With Intelligence's prior written approval, the Client may increase the Permitted Number at any time by providing not less than seven (7) days prior written notice to With Intelligence. The amount of such additional Licence Fee shall be calculated on a pro-rata basis, from the date of With Intelligence's notice of approval to the end of the Initial Term or any Renewal Term and payable within thirty (30) days of With Intelligence's invoice. The amount of the annual Licence Fee shall be amended accordingly.
- 3.5 Client shall not decrease the Permitted Number during the Initial Term. Client may decrease the Permitted Number for any Renewal Term by providing With Intelligence with no less than thirty (30) days prior written notice, such notice to expire at the end of the Initial Term or any Renewal Term and provided always that the Permitted Number does not decrease beyond the Minimum Number. The amount of the annual Licence Fee shall be amended accordingly.
- 3.6 Except as expressly permitted in this Agreement, Client shall not, and shall not permit others (including any Users) to:
- 3.6.1 modify, translate, create derivative copies of or copy the Software Service (other than one backup copy which reproduces all proprietary notices), in whole or in part;
 - 3.6.2 reverse engineer, decompile, disassemble or otherwise reduce the object code of the Software Service to source code form;
 - 3.6.3 distribute, sub-license, assign, share, timeshare, sell, rent, lease, grant a security interest in, use for service bureau purposes, or otherwise transfer the Software Service or Client's right to Use the Software Service;

- 3.6.4 remove or modify any copyright, trademark, or other proprietary notices of With Intelligence or any of its subsidiary or holding companies contained within the Software Service; or
- 3.6.5 use the Software Service in any manner not expressly authorised by this Agreement.
- 3.7 With Intelligence shall use all reasonable endeavours to ensure that:
 - 3.7.1 access to the Software Service is available at all times, however the Client acknowledges and agrees that the Software Service may not be accessible to the Client from time to time. Wherever possible all scheduled service interruptions shall take place outside of office hours and three (3) days prior written notice of such scheduled service interruptions shall be given to the Client; and
 - 3.7.2 the Software Service is free of any computer viruses, worms, trojans or other malicious code.
- 3.8 With Intelligence may temporarily suspend the Software Service (in whole or in part) without notice in the event of unscheduled urgent service requirements resulting from malfunction or other disruption to the Software Service as necessary in order to protect the Software Service from unauthorised access or attack, or in order to prevent fraud or any unauthorised or unlawful access or use of the Software Service or if such suspension is required in response to an order or direction of any court of law, governmental or regulatory agency.

4. CLIENT OBLIGATIONS

- 4.1 The Client hereby represents and warrants that:
 - 4.1.1 the Client and/or the User owns all rights in the Client Content necessary to grant With Intelligence the right to carry out its obligations pursuant to this Agreement;
 - 4.1.2 the Client Content does not and will not contravene or breach any applicable law, regulation code of practice or directive;
 - 4.1.3 the Client Content and its use through the Software Service does not and will not infringe any Intellectual Property Rights or other rights of any person, nor are they obscene, defamatory, libellous or slanderous, nor will it cause injury to, invade the privacy of or otherwise violate other rights of any person.
- 4.2 With Intelligence shall bear no responsibility or liability for checking the Client Content prior to or during its use by With Intelligence pursuant to this Agreement.
- 4.3 Client will ensure that it provides all information, documents, data, decision making and sign off as reasonably required by With Intelligence to perform its obligations under this Agreement. With Intelligence shall not be liable for any delay or failure to comply with its obligations hereunder which is due in whole or part to the Client's delay or failure to comply with this clause 4.3 or Client failure to perform any other Client obligations set forth in the Services Schedule or which is caused by any Client or third party software, systems or personnel.
- 4.4 With Intelligence and its E-mail Provider will have the right to collect and analyse aggregated data resulting from the Client's use of the Software Service ("**Service Data**"). For the avoidance of doubt, Service Data shall not include Client Content or Personal Data. Any Service Data collected by With Intelligence or any E-mail Provider will be owned by the party collecting the Service Data and may be used by that party for any lawful business purpose without a duty of accounting to the Client.

5. SUPPORT

5.1 In consideration for payment of the Licence Fee, With Intelligence shall provide the Support during the Support Hours, which shall comprise of the following:

5.1.1 responding to requests for advice on the Use of the Software Service by Client by telephone or electronic mail;

5.1.2 the diagnosis of Faults in the Software Service and instructions as to the rectification of such Faults by telephone or electronic mail;

5.2 If the Client, acting reasonably, considers that there is a Fault in the Software Service, Client shall report it to With Intelligence as soon as the issue is detected and shall include sufficient material and information to enable With Intelligence to duplicate the issue, including but not limited to:

5.2.1 a clear and accurate description of the issue;

5.2.2 the area of the Software Service and business to which it relates;

5.2.3 the function that was being performed when the issue occurred and/or the sequence of events leading up to the occurrence of the issue;

5.2.4 the error message displayed, if any; and

5.2.5 any other information relating to the Software Service or the issue which With Intelligence requires to perform its obligations hereunder.

5.3 Using the information provided in clause 5.2, With Intelligence shall investigate the issue to establish whether it constitutes a Fault. Following such investigation, With Intelligence shall respond to the Client to advise whether the issue is:

5.3.1 accepted as a Fault, notify the Client of the Fault Severity Level and use all reasonable endeavours to correct such Fault in the Software Service, with a level of effort commensurate with the Fault Severity Levels; or

5.3.2 not accepted as a Fault together with the reason for its rejection.

5.4 The table below shows the Response Times and estimated Temporary Fix or Workaround times in respect of the Fault Severity Levels:

Fault Severity Level	Response Time	Estimated Temporary Fix or Workaround
Severity Level 1	within 2 Support Hours	24 Support Hours
Severity Level 2	within 3 Support Hours	48 Support Hours
Severity Level 3	within 4 Support Hours	10 Working Days
Severity Level 4	within 5 Working Days	n/a

5.5 The Support services shall not include the diagnosis and rectification of any Fault resulting from:

5.5.1 use of the Software Service other than in accordance with the terms of this Agreement, the improper use or operation of the Software Service or the use of the Software Service for a purpose for which it was not designed;

- 5.5.2 the modification of the Software Service or its merger (in whole or in part) with any other software except as permitted by this Agreement;
 - 5.5.3 the failure by Client to implement any recommendations in respect of or solutions to Faults previously advised by With Intelligence;
 - 5.5.4 any repair, adjustment, alteration or modification of the Software Service by any person other than With Intelligence without With Intelligence' prior consent;
 - 5.5.5 rectification of lost or corrupted data arising for any reason other than With Intelligence' own negligence;
 - 5.5.6 loss or damage caused directly or indirectly by operator error or omission;
 - 5.5.7 a fault in Client's or third party software or applications or any upgrade in respect thereof;
 - 5.5.8 the acts or omissions of Client or Users or such other persons gaining access to the Software Service by means of Users' passwords or equipment;
 - 5.5.9 a fault in the equipment or in any other software operating in conjunction with or integrating with the Software Service, including the Client's own internet connectivity and available bandwidth;
 - 5.5.10 any other breach by the Client of its obligations under this Agreement.
- 5.6 With Intelligence may, upon receipt of a request by Client, agree to provide the Support notwithstanding that the Fault results from any of the circumstances described in clause 5.5 above. With Intelligence shall in such circumstances be entitled to levy additional Charges in advance which shall be paid by Client (together with value added tax thereon) within thirty (30) days of receipt of an invoice in respect of such additional Charges.
- 5.7 Client acknowledges that it will be solely responsible for all support of its own software, data and equipment it is using in conjunction with the Software Service. With Intelligence shall have no liability for any loss or corruption of any such software, data and equipment, however caused.
- 5.8 Provision of Support as described in this clause 5 is With Intelligence's sole obligation, and Client's sole remedy, with respect to the support of the Software Service. With Intelligence shall have no other liability or obligation to Client with respect to any Faults or other real or perceived problems with the Software Service.
- 5.9 For the avoidance of doubt, nothing in this Agreement shall entitle the Client to receive additional modules in the software or new software products developed by With Intelligence.

6. PROPRIETARY RIGHTS

- 6.1 With Intelligence (and/or its licensors) has sole and exclusive ownership of all right, title, and interest in and to the Software Service, including all Intellectual Property Rights therein.
- 6.2 This Agreement conveys a limited licence to Use the Software Service and shall not be construed to convey title to or ownership of the Software Service to the Client. All rights in and to the Software Service not expressly granted to Client are reserved by With Intelligence and/or its licensors.
- 6.3 Client grants to With Intelligence and its licensors all necessary rights and licenses in and to all Client Content necessary for With Intelligence and its licensors to provide the Software Service under this Agreement. The Client hereby grants With Intelligence a non-exclusive, worldwide, royalty-free licence to use, copy, cache, store and display and reproduce the Client Content (including all Intellectual Property Rights therein) for the purposes of fulfilling its obligations

under this Agreement. With Intelligence may sub-licence the rights granted hereunder to any of With Intelligence' third party service providers used by With Intelligence to make the Software Service available to the Client.

7. CHARGES

- 7.1 In consideration for the provision of the Services, Client shall pay to With Intelligence the Charges.
- 7.2 Save as otherwise stated in the Services Schedule, With Intelligence intends to invoice the Client for the Licence Fee on the Effective Date and on each anniversary thereafter. All other Charges shall be invoiced monthly in arrears. Unless otherwise agreed between the parties in writing or by e-mail, the Client shall pay With Intelligence all Charges within thirty (30) days of the date of the invoice. All Charges are non-refundable.
- 7.3 The Charges are exclusive of VAT or other applicable sales tax which shall be added to the Client's invoice. With Intelligence reserves the right to increase the Licence Fee for each Renewal Term, by giving Client prior written notice of the proposed increase at least 45 days prior to the commencement of the Renewal Term. If Client is unable to accept the proposed increase then Client shall give notice of termination to With Intelligence at least thirty (30) days prior to the commencement date of the Renewal Term.
- 7.4 All payments made or to be made under this Agreement shall be made in full, without any deduction, withholding, set-off or counterclaim on account of any taxes or otherwise.
- 7.5 With Intelligence reserves the right to charge Client interest on any payment not made by the due date. Interest will be calculated on a daily basis, both before and after any judgement, at the rate of 4 per cent per annum above the base rate from time to time of the Bank of England, for the period from the due date for payment until the date on which it is actually paid. Such interest would be compounded quarterly and payable on demand.

8. TERM AND TERMINATION

- 8.1 This Agreement shall commence on the Effective Date and shall continue in effect for a period of one (1) year (the "Initial Term"), unless terminated in accordance with this clause 8. Upon expiry of the Initial Term, the Agreement shall automatically renew for further periods of one (1) year (each such period a "Renewal Term") unless terminated by With Intelligence or the Client by giving no less than thirty (30) days' prior written notice, such notice to expire at the end of the Initial Term or the then current Renewal Term.
- 8.2 This Agreement may be terminated immediately on notice in writing:
- 8.2.1 by With Intelligence if Client fails to pay any sum due hereunder within 30 days of the due date therefor;
 - 8.2.2 by With Intelligence if Client is in breach of the E-mail Policy;
 - 8.2.3 by With Intelligence if the Client is in breach of applicable laws or regulations in its use of the Software Service or infringes any third party rights in relation to its use of the Software Service;
 - 8.2.4 by With Intelligence or Client if the other commits any material breach of any term of any of this Agreement and which (in the case of a breach capable of being remedied) shall not have been remedied within 30 days of a written request to remedy the same;
 - 8.2.5 by With Intelligence or Client if the other shall convene a meeting of its creditors or if a proposal shall be made for a voluntary arrangement within Part 1 of the Insolvency Act 1986 or a proposal for any other composition scheme or arrangement with (or assignment for the benefit of) its creditors or if the other shall be unable to pay its debts

within the meaning of section 123 of the Insolvency Act 1986 or if a trustee receiver, administrative receiver or similar officer is appointed in respect of all or any part of the business or assets of the other or if a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the other or for the making of an administration order (otherwise than for the purpose of an amalgamation or reconstruction).

- 8.3 Termination of this Agreement for any reason shall be without prejudice to any other rights or remedies to which With Intelligence and Client may be entitled hereunder or at law and shall not affect any accrued rights or liabilities of either of them.
- 8.4 On termination of this Agreement for any reason:
- 8.4.1 the rights and licences granted to Client herein shall terminate;
 - 8.4.2 Client shall cease all Use of the Software;
 - 8.4.3 Client shall return to With Intelligence all copies of the Software in Client's possession or under its control;
 - 8.4.4 Client shall certify in writing to With Intelligence its compliance with the foregoing;
 - 8.4.5 With Intelligence shall destroy or otherwise dispose of all of the Client Content in its possession within 30 days of the effective date of termination. Provided With Intelligence receives, no later than fourteen (14) days after the effective date of the termination of this Agreement, a written request from the Client for the then most recent back-up of Client Content processed through the Software Service, With Intelligence shall deliver such Client Content to the Client as soon as reasonably practicable after its receipt of such a written request; and
 - 8.4.6 clauses 6, 7 (to the extent of unpaid payment obligations), 8.3, 8.4, 9, 10, 11 and 13 shall survive.

9. WARRANTIES AND REPRESENTATIONS

- 9.1 Both parties warrant that they have the legal right and authority to enter into this Agreement and that so doing shall not put such party in breach of any agreement to which it is a party or otherwise bound.
- 9.2 Client hereby warrants, represents and undertakes that (i) it has the legal right and authority to perform its obligations under this Agreement and to grant the rights and licenses described in this Agreement (ii) all Client Content is in compliance with the terms of this Agreement (iii) it shall comply with all applicable local and foreign laws and regulations which may govern the Use of the Software Service, and (iv) it shall Use the Software Service only for lawful purposes and in accordance with the terms of this Agreement.
- 9.3 With Intelligence cannot guarantee and does not warrant or represent that any specific results will be produced by the Software Service. Except as expressly set out herein, to the maximum extent permitted by law, With Intelligence expressly excludes all representations, warranties, conditions, terms, obligations and liabilities in connection with the Services, including but not limited to the warranties of merchantability, non-infringement of intellectual property, accuracy, completeness, fitness for a particular purpose, and any warranties arising by statute or otherwise in law or from course of dealing, course of performance, or use of trade, which are hereby excluded and disclaimed.

10. LIMITATION OF LIABILITY AND INDEMNITY

- 10.1 Subject to clauses 10.2 to 10.5, the maximum aggregate liability of With Intelligence with respect to any losses, damages, costs, claims and expenses arising out of or in connection with

this Agreement and whether in contract, tort (including negligence) or otherwise shall be limited to the Licence Fee paid by the Client to With Intelligence in the twelve (12) months prior to the month in which the event or series of events giving rise to the claim first arose.

- 10.2 In no event shall With Intelligence be liable, in contract, tort or negligence, for any:
- 10.2.1 special, indirect, incidental, or consequential damages;
 - 10.2.2 loss of profits or goodwill;
 - 10.2.3 loss of management time, business or business benefit; or
 - 10.2.4 loss of anticipated savings,
- even if such losses or damages were reasonably foreseeable or either party has been advised of the possibility of the other party incurring the same.
- 10.3 In no circumstances shall With Intelligence be liable for any loss or damage resulting from:
- 10.3.1 a failure by the Client to comply with the Technical Requirements;
 - 10.3.2 any use of the Software Service other than in accordance with this Agreement; and
 - 10.3.3 any failure of the Software Service due to any integration or interoperability issues arising with any third party or Client systems or legacy systems unless expressly set out to the contrary in the Services Schedule.
- 10.4 For the avoidance of doubt, nothing in this Agreement shall be deemed to exclude, restrict or limit liability of either party (or their respective agents or sub-contractors): (i) for death or personal injury resulting from their negligence; or (ii) any liability for fraudulent misrepresentation or (iii) in respect of any indemnity granted hereunder.
- 10.5 In the event that With Intelligence fails to comply with its obligations pursuant to this Agreement, With Intelligence shall be afforded a reasonable opportunity to correct such failure.

11. CONFIDENTIALITY

- 11.1 Each party (the "Receiving Party") shall use its reasonable endeavours to keep confidential the provisions of this Agreement and all information and documentation disclosed by the other party (the "Disclosing Party"), before or after the date of this Agreement, to the Receiving Party or of which the Receiving Party becomes aware, which in each case relates to any software, operations, products, processes, dealings, trade secrets or the business of the Disclosing Party (including without limitation all associated software, specifications, designs and graphics) or which is identified by the Disclosing Party as confidential (the "Confidential Information") and will not use any Confidential Information for any purpose other than the performance of its obligations under this Agreement. "Confidential Information" expressly includes the Software. The Receiving Party shall not disclose Confidential Information to any third party without the prior written consent of the Disclosing Party. This clause 11 shall survive termination of this Agreement for whatever cause.
- 11.2 During the term of this Agreement the Receiving Party may disclose the Confidential Information to its employees and sub-contractors (any such person being referred to in this clause 11 as the "Recipient") to the extent that it is reasonably necessary for the purposes of this Agreement. The Receiving Party shall procure that each Recipient is made aware of and complies with all the Receiving Party's obligations of confidentiality under this Agreement as if the Recipient was a party to this Agreement.
- 11.3 The obligations contained in Clauses 11.1 and 11.2 shall not apply to any Confidential Information which is:

- 11.3.1 at the date of this Agreement already in, or at any time after the date of this Agreement comes into, the public domain other than through breach of this Agreement by the Receiving Party or any Recipient;
 - 11.3.2 furnished to the Receiving Party or any Recipient without restriction by a third party having a bona fide right to do so; or
 - 11.3.3 required to be disclosed by the Receiving Party by law or regulatory requirements of any stock exchange, provided that the Receiving Party shall give the Disclosing Party as much notice as reasonably practicable of the requirement for such disclosure.
- 11.4 All tangible forms of Confidential Information, including, without limitation, all summaries, copies, excerpts of any Confidential Information whether prepared by the Disclosing Party or not, shall be the sole property of the Disclosing Party, and shall be immediately delivered by the Receiving Party to the Disclosing Party upon the Disclosing Party's request or the termination of this Agreement (whichever is earlier). The Receiving Party shall not copy, reproduce, publish or distribute in whole or in part any Confidential Information without the prior written consent of the Disclosing Party.

12. DATA PROTECTION

- 12.1 The parties agree that, for the Protected Data, the Client shall be the data controller and With Intelligence shall be the data processor.
- 12.2 When used in this Agreement, the following terms shall have the same meaning as in the Data Protection Laws:
- 12.2.1 personal data;
 - 12.2.2 data controller;
 - 12.2.3 data processor;
 - 12.2.4 data subject;
 - 12.2.5 process and processing; and
 - 12.2.6 supervisory authority
- 12.3 With Intelligence shall process Protected Data in compliance with:
- 12.3.1 the obligations of data processors under Data Protection Laws in respect of the performance of its obligations under this Agreement; and
 - 12.3.2 the terms of this Agreement.
- 12.4 The Client shall comply with:
- 12.4.1 all Data Protection Laws in connection with the processing of Protected Data, the Services and the exercise and performance of its respective rights and obligations under this Agreement, including maintaining all relevant regulatory registrations and notifications as required under Data Protection Laws; and
 - 12.4.2 the terms of this Agreement.
- 12.5 The Client warrants and represents that:
- 12.5.1 all data sourced by the Client for use in connection with the Services shall comply in all respects, including in terms of its collection, storage and processing (which shall include the Client providing all of the required fair processing information to, and obtaining all necessary consents from, data subjects), with Data Protection Laws;

- 12.5.2 all instructions given by it to With Intelligence in respect of Protected Data shall at all times be in accordance with Data Protection Laws;
- 12.5.3 it shall take all reasonable steps to ensure the reliability and integrity of all of the personnel who shall have access to the Protected Data and who will be sending the Protected Data to With Intelligence:
- 12.5.4 it will not provide (or cause to be provided) any Sensitive Data to With Intelligence for processing under this Agreement, and With Intelligence will have no liability whatsoever for Sensitive Data, howsoever arising.

Instructions and details of processing

- 12.6 Insofar as With Intelligence processes Protected Data on behalf of the Client:
 - 12.6.1 unless required to do otherwise by applicable law, With Intelligence shall (and shall take steps to ensure each person acting under its authority shall) process the Protected Data only on and in accordance with the Client's documented instructions as set out in this clause 12 and Schedule 4 (Data processing details), as updated from time to time by agreement between the parties (**Processing Instructions**);
 - 12.6.2 notwithstanding any other provision of this Agreement, if applicable law requires With Intelligence to conduct processing of the Protected Data other than in accordance with the Client's Instructions, such processing shall not constitute a breach of this Agreement;
 - 12.6.3 if applicable law requires it to process Protected Data other than in accordance with the Processing Instructions, With Intelligence shall notify the Client of any such requirement before processing the Protected Data (unless applicable law prohibits such information on important grounds of public interest); and
 - 12.6.4 With Intelligence shall promptly inform the Client if it becomes aware of a Processing Instruction that, in With Intelligence's opinion, infringes Data Protection Laws, provided that:
 - 12.6.4.1 this shall be without prejudice to clauses 12.4 and 12.5;
 - 12.6.4.2 to the maximum extent permitted by mandatory law, With Intelligence shall have no liability howsoever arising (whether in contract, tort (including negligence) or otherwise) for any losses, costs, expenses or liabilities arising from or in connection with any processing in accordance with the Client's Processing Instructions following the Client's receipt of that information;

Technical and organisational measures

- 12.7 With Intelligence shall implement and maintain appropriate technical and organisational measures so as to ensure a level of security in respect of the Protected Data processed by it that is appropriate to the risks that are presented by the processing, in particular from accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to the Protected Data transmitted, stored or otherwise processed.

Using staff and other processors

- 12.8 With Intelligence shall ensure that With Intelligence personnel authorised to process the Protected Data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.

- 12.9 The Client hereby gives With Intelligence general authorisation to engage Sub-processors for processing of Protected Data on behalf of the Client. With Intelligence shall inform the Client before transferring any Protected Data to a new Sub-processor.
- 12.10 With Intelligence shall enter into appropriate written agreements with all of its Sub-processors including terms required under Data Protection Laws.
- 12.11 Upon the Client's request, With Intelligence is obliged to provide information regarding any Sub-processor, including name, address and the processing carried out by the Sub-processor.

Assistance with the Client's compliance and data subject rights

- 12.12 With Intelligence shall refer all Data Subject Requests it receives to the Client within three business days of receipt of the request, provided that if the number of Data Subject Requests exceeds two in any calendar month, the Client shall pay With Intelligence's charges calculated at With Intelligence's then prevailing time and materials rates for professional services or such other charges as may, at the relevant time, be agreed by the parties in writing, for recording and referring the Data Subject Requests in accordance with this clause 12.12.
- 12.13 With Intelligence shall provide such reasonable assistance as the Client reasonably requires (taking into account the nature of processing and the information available to With Intelligence) to the Client in ensuring compliance with the Client's obligations under Data Protection Laws with respect to:
- 12.13.1 security of processing;
 - 12.13.2 data protection impact assessments (as such term is defined in Data Protection Laws);
 - 12.13.3 prior consultation with a supervisory authority regarding high risk processing; and
 - 12.13.4 notifications to the supervisory authority and/or communications to data subjects by the Client in response to any Personal Data Breach,

provided the Client shall pay With Intelligence's charges calculated at With Intelligence's then prevailing time and materials rates for professional services or such other charges as may, at the relevant time, be agreed by the parties in writing for providing the assistance in this clause 12.13.

International data transfers

- 12.14 With Intelligence will not transfer the Protected Data to a Sub-processor located in a country outside of the United Kingdom which is not recognised by the UK's data protection Regulator or UK government to have an adequate level of protection in accordance with Data Protection Laws unless the transfer by With Intelligence of the Protected Data is effected by such legally enforceable mechanism(s), such as the approved "Standard Contractual Clauses" (as approved pursuant to the GDPR and/or UK GDPR) for transfers of personal data as may be permitted under Data Protection Laws from time to time.

Records, information and audit

- 12.15 With Intelligence shall maintain, in accordance with Data Protection Laws binding on With Intelligence, written records of all categories of processing activities carried out on behalf of the Client.

With Intelligence shall, in accordance with Data Protection Laws, make available to the Client such information as is reasonably necessary to demonstrate With Intelligence's compliance with its obligations under Article 28 of the GDPR (and under any Data Protection Laws equivalent to that Article 28), and allow for and contribute to audits (at Client's cost).

Breach notification

- 12.16 In respect of any Personal Data Breach involving Protected Data, With Intelligence shall, without undue delay:
- 12.16.1 notify the Client of the Personal Data Breach; and
 - 12.16.2 provide the Client with details of the Personal Data Breach.

Deletion or return of Protected Data and copies

- 12.17 Subject to clause 8.4.5, With Intelligence shall delete all the Protected Data in its possession within 30 days after the earlier of:
- 12.17.1 the termination of this Agreement; or
 - 12.17.2 once processing by With Intelligence of any Protected Data is no longer required for the purpose of With Intelligence's performance of its relevant obligations under this Agreement,

and delete existing copies (unless storage of any data is required by applicable law and, if so, With Intelligence shall inform the Client of any such requirement).

13. E-MAIL PROVIDER

- 13.1 The Software Service includes certain software developed, provided and/or maintained by the E-mail Provider ("**Provider Software**"). The E-mail Provider may change the features and functions of its Provider Software forming part of the Software Service. With Intelligence shall give the Client as much advanced notice as reasonably practicable of such changes. The E-mail Provider retains all right, title and interest in and to their Provider Software and any additions, improvements, updates, and modifications thereto.
- 13.2 Client agrees to and hereby does indemnify, defend, and hold harmless With Intelligence and its licensors and their respective affiliates, employees, agents, contractors, assigns, licensees, and successors in interest ("**Indemnified Parties**") on demand from any and all claims, losses, liabilities, damages, fees, expenses, and costs suffered or incurred by With Intelligence that result from or in connection with:
- 13.2.1 any claim or allegation made against any Indemnified Party arising from the Client or any User accessing or using the Provider Software; or
 - 13.2.2 Client or any User's breach of the E-mail Policy.
- 13.3 The E-mail Provider imposes rights and restrictions on the use of the Provider Software forming part of the Software Service. With Intelligence is required to ensure all its Clients comply with certain obligations imposed on With Intelligence and these are included in the E-mail Policy. Client shall, throughout the Term, comply with the E-mail Policy in its use of the Software Service. With Intelligence may have to update the E-mail Policy from time to time to reflect changes imposed by the E-mail Provider. With Intelligence shall give the Client as much written notice as reasonably practicable of such change and deliver to the Client on request such documentary evidence that the changes are a requirement of the E-mail Provider.

14. MISCELLANEOUS

- 14.1 Neither With Intelligence or Client shall be liable for any breach of this Agreement resulting from causes beyond its reasonable control including but not limited to fires, strikes (of its own or other employees) insurrection or riots, wrecks or delays in transportation, inability to obtain supplies and raw materials requirements or regulations of any civil or military authority (an "**Event of Force Majeure**"). Each of With Intelligence and Client agree to give notice forthwith

2.1 With Intelligence shall provide the Professional Services (if any) specified in the Order Form..

3 CHARGES

3.1 The Charges in respect of the Services shall comprise the following:

3.1.1 Software Service Charges

As set out in the Order Form

3.1.2 Professional Services Charges

As set out in the Order Form. Professional Services charges exclude all disbursements and expenses (including reasonable travel and subsistence expenses) incurred by With Intelligence in connection with the performance of the Professional Services (the "Disbursements")..

4 INTERPRETATION

4.1 All defined terms used in this Services Schedule have the same meaning as those which are attributed to them in the Agreement.

SCHEDULE 2 TECHNICAL REQUIREMENTS

Windows App

Memory: 4 GB

Processor: 1.5 GHz

Supported Windows Versions:

- Windows 10
- Windows 11

Supported Office Versions:

- Microsoft Office 2016
- Microsoft Office 2019
- Microsoft Office 365

Web App:

Memory: 4 GB

Processor: 1.5 GHz

Supported Browsers (Latest versions):

- Chrome
- Edge (Chromium Version)
- Safari
- Firefox

Mobile App

- Apple iPhone/ iPad: iOS 13, 14, 15
- Android (Latest version)

SCHEDULE 3
USER LEVEL DEFINITIONS

Feature	Light User	Full User
Contact Management	YES	YES
Activity Tracking	YES	YES
Document Management	YES	YES
Opportunities	YES	YES
Investor Profiles	YES	YES
Fund Profiles	YES	YES
Dashboards	YES	YES
Mobile App	YES	YES
Run Reports	NO	YES
Mailings	NO	YES
Fund Performance Analytics	NO	YES
Accounts and Cash Flows	NO	YES
Fund Administrator Integration	NO	YES
Factsheet Module	NO	YES

SCHEDULE 4

Data processing details

Under Data Protection Law, With Intelligence shall only process Protected Data in accordance with Client's documented instructions, as regulated in the Agreement. This Schedule 4 forms part of the Client's Processing Instructions, directing With Intelligence on the scope, nature, and purpose when processing Protected Data on behalf of the Client.

1. SCOPE OF PROCESSING

With Intelligence shall process the Protected Data hereunder exclusively within the scope of the provision of the Services.

2. PURPOSE OF PROCESSING.

With Intelligence shall process Protected Data only for the purposes of enabling the Client to use the Software Service.

3. CATEGORIES OF DATA SUBJECTS

Client's clients, prospects, and other business contacts.

4. TYPES OF PERSONAL DATA

Names, email addresses, mailing addresses, telephones numbers, notes, emails and any other personal data entered by the Client into the Software Service or provided to With Intelligence to import into the Software Service.

5. SPECIAL CATEGORIES OF PERSONAL DATA

With Intelligence does not intentionally collect or process any Sensitive Data in the provision of its Software Service.

The Client agrees not to provide Sensitive Data to With Intelligence at any time.

6. PROCESSING ACTIVITIES

- Storage and display of Client Content within the Software Service.
- Automatic creation of backup copies of Client Content for disaster recovery purposes.
- Importing of Client Content into the Software Service on request by the Client.

7. DURATION OF PROCESSING

Protected Data shall not be processed for a period longer than is necessary for serving its purpose. In respect of all processing activities, the processing shall cease within 30 days of expiry or termination of this Agreement.

SCHEDULE 5

E-MAIL POLICY

This Email Policy (“**Policy**”) applies to all email and other communications (“**Email**”) generated or sent through the Software Service. A reference to “you” or “your” is a reference to the Client.

BY GENERATING OR SENDING EMAIL THROUGH THE SOFTWARE SERVICE, YOU AGREE TO COMPLY WITH THIS POLICY. WITH INTELLIGENCE MAY SUSPEND OR TERMINATE YOUR ACCESS TO AND USE OF THE SOFTWARE SERVICE IF YOU DO NOT COMPLY WITH THIS POLICY.

- Your use of the Software Service:
 - must comply with all applicable laws. Examples of applicable laws include laws relating to spam or unsolicited commercial email (“UCE”), privacy, security, obscenity, defamation, intellectual property, pornography, terrorism, homeland security, gambling, child protection, and other applicable laws.
 - must not be in a manner that is or otherwise encourages (a) any illegal, fraudulent, or abusive activities or (b) materially interfering with the business of With Intelligence or its licensors.
 - must not attempt to bypass or break any security mechanism on any of the Software Service or in any other manner that poses a material security or service risk to With Intelligence, its licensors or other clients.
 - shall not launch or facilitate, whether intentionally or unintentionally, a denial of service attack on any of the Software Service or any other conduct that materially and adversely impacts the availability, reliability, or stability of the Software Service.
 - shall not transmit any material, data, or content that contains viruses, Trojan horses, spyware, worms or any other malicious, harmful, or deleterious programs.
 - shall not be in connection with unsolicited, unwanted, or harassing communications (commercial or otherwise), including, but not limited to, phone calls, SMS or MMS messages, chat, voice mail, video, email, or faxes.
 - shall not harvest or otherwise collect information about individuals, including email addresses or phone numbers, without their explicit consent or under false pretenses.
 - shall not be in a manner that generates inquiries from a law enforcement, government, or Regulator.
 - must not create a false identity or forged email address or header, or phone number, or otherwise attempting to mislead others as to the identity of the sender or the origin of a message, email, or phone call.
 - must not be in such a way that violates generally recognized industry guidelines

If You know of or suspect any violations of this Policy, please notify With Intelligence immediately.