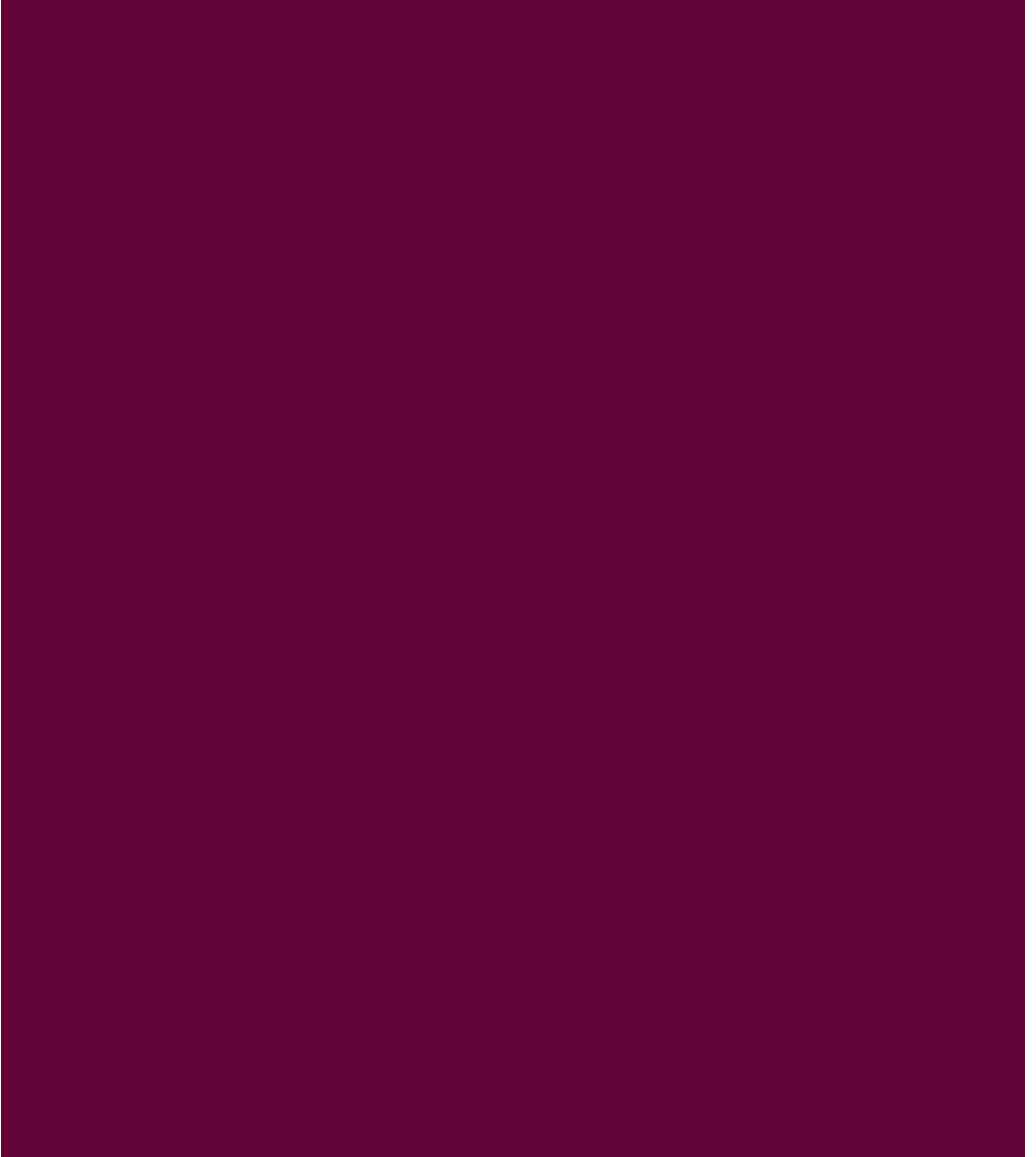


# TERMS OF BUSINESS AND ELECTRONIC ACCESS AGREEMENT

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# INSTRUCTIONS

## Terms of Business

The Terms of Business are attached for your completion. Please note that you should sign these Terms of Business if you are representing a Company, Partnership, Sole Trader or Network directly authorised by the Financial Conduct Authority ("FCA"). You may also sign these Terms of Business if you are an Exempt Professional Firm as defined in these Terms of Business.

If you are an Appointed Representative of a FCA directly authorised Network or IFA you should not sign these Terms of Business.

## Electronic Access Agreement

The Electronic Access Agreement is set out in the Appendix and forms part of these Terms of Business. If you complete the Electronic Access Notification Form, you will be able to register for Phoenix Wealth's Online services.

The Electronic Access Agreement may be entered into by a Company, Partnership, Sole Trader or Network directly authorised by the FCA or an Exempt Professional Firm as defined in these Terms of Business.

## Note to Networks and Appointed Representatives:

The Electronic Access Agreement will grant online access solely to employees of the Network. Appointed Representatives of the Network must enter into a standalone Electronic Access Agreement (available from Phoenix Wealth) as the Appointed Representative will be responsible for obtaining online access for itself and its employees. Appointed Representatives will only be given Electronic Access when their Network has consented to Electronic Access being given to its members. If you are an Appointed Representative you should contact your Network to ascertain whether such consent has been granted.

## Completing the Terms of Business

To confirm you accept the Terms of Business you must sign and return the Signatory page.

If you want access to our Online services you must confirm this on the Signatory page and sign and return the Electronic Access Notification Form.

You can return both by scanning and emailing, or printing and posting, to the relevant addresses on the last page.

## You are liable for keeping your own copy of the Terms of Business and Electronic Access Agreement.

## Registering to use Online services

Once we confirm we've received the signed Signatory page and Electronic Access Notification Form, your employees will need to register to use our Online services through the 'Online services' section at [www.phoenixwealth.co.uk](http://www.phoenixwealth.co.uk).

You'll normally have online access within 48 hours of registering.

### Please read and retain for future reference

These Terms of Business and Electronic Access Agreement are for advisers and their users only and should not be distributed to or relied upon by retail clients or any other parties.

# SIGNATORY PAGE

## Company details

<b>Full registered name of Firm</b>	
<b>Main business address of Firm</b> (inc postcode)	
<b>Main telephone number</b>	
<b>Main fax number</b>	
<b>FCA authorisation number</b>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
<b>What category is your firm?</b>	<input type="checkbox"/> Directly authorised <input type="checkbox"/> Network

## Firm's bank details

<b>Bank account number</b>	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
<b>Sort code</b>	<input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/> - <input type="text"/> <input type="text"/>
<b>Roll number</b> (where applicable e.g. building society)	<input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/>
<b>Bank name and address</b>	
<b>Payee name as per bank account</b>	

## Electronic Access

Would you like Electronic Access set up?  Yes  No

If you tick the 'No' box above you don't need to complete the **Electronic Access Notification Form** on the next page.

## Declaration

**Persons signing these Terms of Business should ensure they are properly authorised to sign on behalf of the Firm. Any change of name or status of the Firm (including a change in permission) should be notified to Phoenix Wealth immediately. I confirm that I have read, understood and agree to be bound by these Terms of Business and the Electronic Access Agreement on behalf of the Firm.**

Signature:

Date:

 /  / 

<b>Name of signatory</b>	
<b>Status in firm</b>	



# ELECTRONIC ACCESS NOTIFICATION FORM

## Super Admin

A Super Admin can grant colleagues either 'Read only', 'Update' or 'Super Admin' access:

- 'Read only' – view client policy details and use the 'My requests' tab within online services to place policy change and information requests straight into our work queue.
- 'Update' – all the above and carry out fund switches and new fund redirections.
- 'Super admin' – all the above as well as access adviser charge statements online, and amend other users' access rights.

There is no limit to the number of Super Admin users a firm can have.

<b>Full registered name of Firm</b>	
<b>Main business address of Firm</b> (inc postcode)	
<b>Nominated Super Admin</b>	
<b>Email address</b>	

Once we confirm we've received the signed Signatory page and Electronic Access Notification Form, your employees will need to register to use our Online services through the 'Online services' section at [www.phoenixwealth.co.uk](http://www.phoenixwealth.co.uk).

You'll normally have online access within 48 hours of registering.

## Declaration

**Persons signing this Electronic Access Notification Form should ensure they are properly authorised to sign on behalf of the Firm. Any change of name or status of the Firm should be notified to us immediately.**

Signature:

Date:

<b>Name</b>	
<b>Role</b>	

Phoenix Life Limited, trading as Phoenix Wealth, is authorised by the Prudential Regulation Authority and regulated by the Financial Conduct Authority and the Prudential Regulation Authority. Phoenix Life Limited is registered in England No. 1016269 and has its registered office at: 1 Wythall Green Way, Wythall, Birmingham, B47 6WG.



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# TERMS OF BUSINESS

These Terms of Business regulate the relationship between:

1. Phoenix Life Limited (a company incorporated in England No. 1016269) whose registered office is at 1 Wythall Green Way, Wythall, Birmingham, B47 6WG (Phoenix Wealth)
2. The Firm whose details are set out on the Signatory Page of these Terms of Business.

## 1. DEFINITIONS AND INTERPRETATION

In these Terms of Business:

### 1.1 The following expressions have the following meanings:

**“Act”** means the Financial Services and Markets Act 2000 as amended from time to time and together with any secondary legislation made under the Act or any replacement of the Act.

**“Adviser Charge”** means the amount which a Client has agreed to pay to the Firm for advice and related services, the payment of which may be facilitated by Phoenix Wealth on the Client’s instructions and deducted from their Contract.

**“Authorised Person”** is as defined in the Act.

**“Business”** means an application by a Client in respect of any products, policies or pension schemes that are offered from time to time by Phoenix Wealth.

**“Business day”** means any day on which ordinary banks are normally open for business in the city of London (except Saturday or Sunday).

**“Client”** means the person, corporate body, trustee or trustees introduced to Phoenix Wealth by the Firm and who have entered into a Contract with Phoenix Wealth.

**“Client Instruction”** means a properly executed declaration by the Client, instructing Phoenix Wealth to pay Remuneration to the Firm on the Client’s behalf. Such instruction shall be in a form to be specified by Phoenix Wealth from time to time.

**“Contract”** means a Business contract between Phoenix Wealth and a Client.

**“Electronic Access”** means access by the Firm to Phoenix Wealth’s website services as authorised by Phoenix Wealth from time to time, the terms and conditions of which are set out in the Electronic Access Agreement in the Appendix to these Terms of Business.

**“Exempt Professional Firm”** means a person to whom under section 327 of the Act, the general prohibition (as set out under section 19 of the Act) does not apply.

**“FCA”** means the Financial Conduct Authority or any successor or any replacement authority or organisation responsible for the regulation of financial services.

**“FCA Handbook”** means the handbook containing the FCA rules and guidance as amended from time to time or any such rules, regulations, statements, codes or other requirements which shall replace such rules and guidance from time to time or any rules of a successor or replacement regulatory body of the FCA.

**“FCA rules”** means the Full Handbook of Rules and Guidance of the FCA (as amended from time to time).

**“Firm”** means either an Exempt Professional Firm or an Authorised Person, and for the purposes of these Terms of Business, a Firm can be a sole trader, partnership or body corporate and references to “its” shall be construed accordingly. Where the Firm is a partnership, any reference herein to the Firm (except in Clause 4) shall, unless the context requires otherwise include a reference to any one or more of the partners and any powers, duties and obligations imposed on the Firm by these Terms of Business shall apply to the partners jointly and severally. For the purpose of these Terms of Business the Firm shall be the person named in (2) above.

**“Flexible Adviser Remuneration (FAR)”** means, where applicable, a type of commission, the amount of which a Client has agreed to pay to the Firm directly from its Contract in respect of Legacy Business introduced by the Firm to Phoenix Wealth.

**“Funded Initial Commission (FIC)”** means a lump sum commission payment made by Phoenix Wealth to the Firm in relation to Legacy Business (introduced by the Firm to Phoenix Wealth and in relation to which the Firm provided advice to the Client before the RDR Launch Date), which Phoenix Wealth pays to the Firm and then Phoenix Wealth deducts from the Client’s Contract over a specified period.

**“Initial Commission”** means, either:

- a. Funded Initial Commission (FIC) or
- b. Flexible Adviser Remuneration (FAR) where such FAR payments, (made over the term of the Contract) are in consideration of the initial advice given on the Contract or an increment to the Contract before the RDR Launch Date by the Firm

payable by Phoenix Wealth to the Firm from a Client’s Contract as introduced to Phoenix Wealth by the Firm.

**“Key Investor Information Document”** shall have the meaning as defined in the FCA Handbook or any replacement document required by Relevant Law from time to time.

**“Legacy Business”** means Contracts entered into between the Client and Phoenix Wealth as a result of advice given before the RDR Launch Date. In the event that an advice point occurs on or after the RDR Launch Date including but not limited to:

- (i) increments to a Contract
- (ii) switches in relation to products other than Life Policies or
- (iii) amendments to a Contract

then such Contract (or proportion of such Contract which is being amended or is additional as a result of the advice point) shall no longer be deemed Legacy Business.

**“Life Policy”** shall have the meaning specified in the FCA Handbook.

**“Ongoing Flexible Adviser Remuneration”** means, where applicable, ongoing payments of FAR payable by Phoenix Wealth to the Firm from a Client’s Contract, in relation to Legacy Business introduced to Phoenix Wealth by the Firm as permitted by the FCA Handbook.

**“Phoenix Group”** means Phoenix Life Limited and any subsidiary undertakings from time to time (‘Subsidiary undertaking’ has the meaning set out in s.1162 of the Companies Act 2006).

**“Remuneration”** means Adviser Charge, Funded Initial Commission and Flexible Adviser Remuneration.

**“Relevant Laws”** means any and all applicable:

- (i) legislation (including statute, statutory instruments, treaties, regulations, orders, directives, by-laws and decrees) and the common law and equity
- (ii) regulatory rules and guidance (including, without limitation, the FCA Handbook and guidance from HMRC)
- (iii) judgements, resolutions, decisions, orders, notices or demands of a competent court, tribunal or regulatory authority (including, without limitation, the FCA) and
- (iv) industry guidance or codes of conduct which are mandatory or endorsed by any regulatory authority (including, without limitation, the FCA).

**“RDR”** means the FCA’s Retail Distribution Review.

**“RDR Launch Date”** means the date, as notified to the Firm, on which RDR changes are implemented for Phoenix Wealth’s products, policies and pension schemes.

**“Specified Address”** means the registered office of Phoenix Wealth.

**“Terms of Business”** means these terms of business and its appendices and any schedules to them, in each case, as amended from time to time in accordance with the terms of these terms of business.

**“Trustee”** means the trustee or trustees from time to time of Phoenix Wealth’s pension schemes.

**“UCITS Schemes”** shall have the meaning specified in the FCA Handbook.

- 1.2 The headings of the clauses and paragraphs are inserted for ease of reference only and shall not affect the interpretation or construction of these Terms of Business.
- 1.3 Reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended, extended or re-enacted.

- 1.4 Words importing the masculine shall include the feminine and the neuter and words in the singular include the plural and vice versa.

## 2. SCOPE

- 2.1 These Terms of Business set out the conditions upon which Phoenix Wealth accepts Business from the Firm.
- 2.2 Phoenix Wealth reserves the right, at its discretion, not to accept Business from the Firm, including but not limited to, where the Firm ceases to be authorised or exempt from authorisation under the Act or ceases to have the appropriate permissions to introduce Business.
- 2.3 The Firm is the agent of the Client in relation to all aspects of the Business except in respect of direct contractual matters between the Firm and Phoenix Wealth as set out herein.
- 2.4 The Firm is not authorised to:
  - (i) bind Phoenix Wealth in any way, nor represent itself as an agent of Phoenix Wealth and Clients must be so informed or
  - (ii) give cover for any risk, sign documents or endorse cheques on behalf of Phoenix Wealth or
  - (iii) alter, add or cancel, either verbally or otherwise, any of the conditions of a Contract or other document issued by Phoenix Wealth or
  - (iv) incur any expenditure or otherwise incur liability on behalf of Phoenix Wealth.
- 2.5 The Firm undertakes to perform its duties under these Terms of Business with skill and diligence in accordance with industry standards of best practice from time to time and that all of its personnel engaged in performing its duties hereunder shall be properly qualified and experienced persons who shall perform their duties in accordance with industry standards of best practice from time to time.

## 3. REGULATORY REQUIREMENTS AND AUTHORISATION

- 3.1 The parties shall observe and comply with all Relevant Laws applicable to their business activities or the performance of their obligations or the exercise of their rights under or in connection with these Terms of Business from time to time. These Terms of Business are subject to Relevant Laws and all parties shall observe and comply with the requirements of the Relevant Laws in relation to the promotion and marketing of long term insurance activities undertaken by them under or in connection with these Terms of Business.
- 3.2 Prior to submitting Business the Firm must supply Phoenix Wealth with details of its trading status (or exempt status), along with its authorisation reference number or numbers, granted in furtherance of the provisions of the Act. If the Firm is an Exempt Professional Firm, it shall provide Phoenix Wealth, in writing, with full details of its professional body or organisation and its status under the rules of the professional body. In addition, the Firm is required to notify Phoenix Wealth immediately of any change regarding such trading status, authorisation or exempt status. It is the Firm’s responsibility to ensure it is appropriately authorised and has the appropriate permissions to submit Business.

- 3.3 Phoenix Wealth requires the Firm to comply with all applicable laws, regulations, and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("Relevant Requirements") and that the Firm has and shall maintain in place its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and that the Firm will enforce them where appropriate.
- 3.4 The Firm agrees not to do or omit to do or permit anything to be done which is an offence or which may be deemed to be an offence under the Bribery Act 2010 and will notify Phoenix Wealth immediately upon becoming aware or upon becoming reasonably suspicious that an activity related to the carrying out of any business on Phoenix Wealth's behalf has contravened or may contravene the Bribery Act 2010.

#### 4. REMUNERATION

- 4.1 Subject to these Terms of Business, all matters relating to the payment of Remuneration by Phoenix Wealth to the Firm shall be governed by Relevant Laws. Any type of Remuneration shall only be available in so far that its provision is in accordance with Relevant Laws. Notwithstanding the terms of Clause 10.4, no payment of Remuneration shall be paid to the Firm unless these Terms of Business are in force and have not been terminated in accordance with Clause 10.
- 4.1.1 Phoenix Wealth will give notice to the Firm after becoming aware that a contribution has:
- been reduced, or
  - not been paid when due, or
  - not been paid as a result of a contribution holiday, or
  - a Contract has been cancelled, or paid up for any other reason.
- 4.1.2 Any delay or failure on Phoenix Wealth's part in informing the Firm shall not affect the liability of the Firm to repay any Remuneration which may become recoverable as a result of non-payment or reduction of contribution.
- 4.1.3 Phoenix Wealth shall use all its reasonable endeavours to ensure that the Firm's account with Phoenix Wealth and the Contract introduced on behalf of its Clients shall be administered in an efficient and business-like manner. However, the Firm accepts that errors and omissions may occur from time to time. In such circumstances, the Remuneration payable to the Firm shall remain the sole source of remuneration to the Firm and Phoenix Wealth shall not accept liability for any further claims for additional Remuneration or compensation from the Firm or from its Clients.
- 4.1.4 Phoenix Wealth will treat increments, indexations, contributions and/or any increase in premium to existing Contracts whether such increase is automatic or otherwise as new Business.
- 4.1.5 The statements of account of Phoenix Wealth (which may be contained in writing, disc, tape, direct online communication to computer terminal, or any other method of communication agreed by Phoenix Wealth and the Firm) shall be the conclusive record of Remuneration due to the Firm and Phoenix

Wealth's decision as to what constitutes the introduction of Business shall be final.

- 4.1.6 Where any liability to Phoenix Wealth arises under Clause 4.2.12 and these Terms of Business and Remuneration is credited to the Firm in respect of any other Business introduced by the Firm, Phoenix Wealth shall have the right to effect reimbursement by setting off that amount against any other Remuneration payments due to the Firm under any other Contracts and/or to request repayment of that amount (or any part thereof) from the Firm directly.
- 4.1.7 Where the Firm is required to make any direct repayment to Phoenix Wealth under Clause 4.1.7, Clause 4.5.3 or any other provision of the Terms of Business, any such repayment shall be due upon notice being given to the Firm. If the Firm fails to make the repayment within 30 days of Phoenix Wealth issuing the notice to the Firm, then the amount of the repayment shall be deemed to be a debt, to which Phoenix Wealth may charge interest at the rate of two percent above Natwest base rate from the date of such formal demand until such time as the repayment is paid in full.
- 4.1.8 Phoenix Wealth shall have the right to offset any sums due to it by the Firm against Remuneration due to the Firm, regardless of when such Remuneration is or was payable (including, for the avoidance of doubt, any sums payable before the Terms of Business came into effect).
- 4.1.9 Phoenix Wealth reserves the right at its absolute discretion to withhold payment of Remuneration to a Firm if in Phoenix Wealth's reasonable opinion it suspects the Firm of fraud or dishonesty.
- 4.1.10 Phoenix Wealth reserves the right to disclose to the Client at any time details of Remuneration and of any other charges in such manner as it thinks fit (in addition to any mandatory disclosure requirements).
- 4.2 **Adviser Charge**
- The following specific provisions in this Clause 4.2 apply to the payment of any Adviser Charge:
- 4.2.1 All contractual obligations in relation to a personal recommendation are between the Client and the Firm however the Client may request Phoenix Wealth to facilitate payment of the Adviser Charge to the Firm on the Client's behalf by providing a Client Instruction to Phoenix Wealth.
- 4.2.2 In default of Phoenix Wealth receiving a Client Instruction accepting the rate, frequency and duration of the required Adviser Charge, such Business shall be deemed to have been accepted on terms that do not include the facilitation of any Adviser Charge.
- 4.2.3 Facilitation of an Adviser Charge shall be at the discretion of Phoenix Wealth and Phoenix Wealth can refuse to facilitate an Adviser Charge for any reason whatsoever.
- 4.2.4 In order for Phoenix Wealth to consider whether it will facilitate any Adviser Charge, the Firm and the Client must agree to provide Phoenix Wealth with any reasonable information it shall request.
- 4.2.5 The Firm must disclose its charges to the Client and secure the Client's agreement to the level, rate and frequency of the Adviser Charge before obtaining



a Client Instruction to authorise Phoenix Wealth to facilitate payment of the Adviser Charge.

- 4.2.6 Subject to Clause 4.2.9 below, Phoenix Wealth will facilitate the Adviser Charge at the rate and frequency contained in the Client Instructions by levying an explicit charge against the particular Client Contract, or by making a one-off payment as appropriate.
- 4.2.7 Phoenix Wealth will only pay the Adviser Charge in accordance with the terms of the Client Instruction and where there are sufficient funds in the Contract or premiums received to allow us to facilitate payment.
- 4.2.8 Phoenix Wealth's Contract charges will be deducted from the value of the Contract before any Adviser Charge is payable.
- 4.2.9 Phoenix Wealth reserves the right to cease facilitating Adviser Charge payments in the following, but not limited to, circumstances if:
- (i) the Firm's authorisation or exempt status referred to in Clause 3.2 ceases or the Firm ceases to hold the appropriate permissions to submit Business
  - (ii) reasonable grounds exist to doubt its fitness to hold such authorisation
  - (iii) the Firm ceases to be the Client's agent for the purposes of the Contract (whether by the initiative of the Client or the Firm)
  - (iv) Phoenix Wealth decides that, in its absolute opinion, the payment becomes contrary to the general principle of investor protection or treating customers fairly. In this circumstance the parties acknowledge that Phoenix Wealth may be required to report to regulatory bodies on the level and scale of charges, but will not take responsibility for assessing the reasonableness of the Adviser Charge
  - (v) the Firm, being an individual, dies, becomes bankrupt, compounds with or assigns his estate or effects for the benefit of creditors, has his goods seized in execution or, where the Firm is a company, the Firm goes into liquidation or receivership or becomes subject to an administration order other than for the purposes of a solvent amalgamation or reconstruction
  - (vi) a Client instructs Phoenix Wealth to cease facilitating payment of the Adviser Charge or
  - (vii) the Contract is terminated, paid up or contributions are reduced for any reason whatsoever.

Notwithstanding all of the above, Phoenix Wealth can cease facilitating an Adviser Charge at any time. Phoenix Wealth will have no liability for outstanding Adviser Charge payments owed by the Client to the Firm.

- 4.2.10 In the event the Client appoints a third party adviser as a replacement to the Firm, at any time, Phoenix Wealth shall cease to facilitate Adviser Charges and shall have no liability for outstanding Adviser Charge payments owed by the Client to the Firm.
- 4.2.11 Where there is a change of adviser firm Phoenix Wealth reserves the right to require a new Client Instruction to facilitate Adviser Charges.

Where either:

- (i) the Firm notifies Phoenix Wealth that the service it provides to the Client is being transferred to a new adviser firm or
- (ii) Phoenix Wealth is notified that the service the Firm provides to the Client has been transferred from a previous adviser firm, and in either circumstance provided that:
  - (a) we are satisfied the Client has been adequately notified of this
  - (b) we have received a signed declaration in the form stipulated by us from time to time
  - (c) our operational processes from time to time for carrying out business transfers have been complied with and
  - (d) we have obtained implied Client consent for the transfer,

then Phoenix Wealth will pay any Adviser Charges to the new adviser firm or to the Firm (as the case may be) without the need for a new Client Instruction. Where Phoenix Wealth receives any such notification we will confirm this to the Client and, unless they instruct us otherwise, we will deem this to be their consent to make this change. The change will be deemed to be reflected in the existing Client Instruction.

- 4.2.12 It is the responsibility of the Firm to ensure it is appropriately authorised and has the appropriate permissions to carry out the services in its Contract with the Client and to receive the Adviser Charge facilitated by Phoenix Wealth. Further it is the Firm's responsibility to ensure that the Adviser Charge is in accordance with Relevant Law, including but not limited to, the requirement that any Adviser Charge paid from a pension scheme must be an authorised scheme payment, in accordance with HMRC legislation. In the event of breach of this clause by the Firm, Phoenix Wealth shall not be liable for refunding any Adviser Charge to the Client and the Firm will indemnify Phoenix Wealth against any loss, cost, expense or damages incurred, as a result of the Firm's failure to refund Adviser Charges received in breach of this clause.

- 4.2.13 With the exception of Clause 4.2.14 below, Phoenix Wealth will not be liable for refunding any Adviser Charge to the Client that it has facilitated on the Client's behalf. This is the sole responsibility of the Firm and the Firm will indemnify Phoenix Wealth against any loss, cost, expense or damages incurred as a result of the Firm's failure to refund Adviser Charges.

- 4.2.14 If a Contract is cancelled due to the Client exercising his right to cancel the Contract as described within the FCA Handbook, Phoenix Wealth shall refund to the Client any Adviser Charge facilitated by Phoenix Wealth on its behalf and the Firm shall pay such a corresponding amount to Phoenix Wealth on demand. The Firm will need to settle direct with its Client any amounts still owed by its Client.

- 4.2.15 Where the Client has requested Phoenix Wealth to facilitate payment of Adviser Charges through the Client's Contract, Phoenix Wealth will facilitate the



payment of the Adviser Charge in accordance with instructions from the Client. Phoenix Wealth will act as collecting agent for the Firm and Adviser Charges will be held in Phoenix Wealth's corporate account on the Firm's behalf before being transferred to the Firm. The money will become a debt owed by Phoenix Wealth to the Firm, until such time as the money is paid to the Firm. The money is not client money and the Firm shall have no claim against the Client in respect of this money.

- 4.2.16 Unless otherwise agreed, the Adviser Charges collected by Phoenix Wealth will be paid to the Firm once a week for Phoenix Wealth Pension Funds only plans and once a month for Self-invested plans.
- 4.2.17 No interest will be paid on money held by Phoenix Wealth on the Firm's behalf.
- 4.2.18 Save where Phoenix Wealth fails to pay monies owed to the Firm where Phoenix Wealth is acting in its capacity as collecting agent for the Firm, or as a direct result of Phoenix Wealth's negligence, wilful default or fraud in facilitating the payment of Adviser Charges through a Client's Contract, Phoenix Wealth will have no liability for outstanding Adviser Charge payments owed by the Client to the Firm.

### 4.3 Flexible Adviser Remuneration

For existing payments of Flexible Adviser Remuneration in relation to Legacy Business, the following provisions shall apply:

- 4.3.1 Subject to Clause 4.3.3 below, Phoenix Wealth will continue to levy an explicit charge against the particular Client Contract in respect of which Flexible Adviser Remuneration is paid, (in addition to other applicable charges) consistent with its rate and frequency, and reserves the right to disclose to the Client at any time details of the Flexible Adviser Remuneration and of the corresponding charge in such manner as it thinks fit (in addition to any mandatory disclosure requirements).
- 4.3.2 Pursuant to Clause 4.1, the full amount of any agreed FAR shall only be deemed due and owing to the Firm at the frequency and amount as agreed for that Contract before the RDR Launch Date. Ongoing Flexible Adviser Remuneration will continue to be paid for business introduced before the RDR Launch Date until it ends naturally (because a product matures or is terminated). For the avoidance of doubt where advice results in a new product or increment being purchased Flexible Adviser Remuneration will not be payable in relation to this new product or increment and Adviser Charging will apply in accordance with Clause 4.2.
- 4.3.3 Ongoing Flexible Adviser Remuneration shall be due and owing to the Firm only when the Contract has sufficient value to cover all such charges.
- 4.3.4 Where a shortfall occurs due to regular contributions due under a Contract being discontinued at any time so that the total contributions paid by the Client are less than the sum of:
- (i) Phoenix Wealth's initial charge for setting up the Contract and
  - (ii) the Flexible Adviser Remuneration payable to the Firm
- then no Flexible Adviser Remuneration will be paid to the Firm.
- 4.3.5 If the structure of the Firm's Flexible Adviser Remuneration requires periodic payments to be made, then Phoenix Wealth reserves the right to stop making or redirect those payments if:
- (i) the Firm's authorisation or exempt status referred to in Clause 3.2 ceases or the Firm ceases or is suspended from holding the appropriate permissions to submit Business
  - (ii) reasonable grounds exist to doubt its fitness to hold such authorisation
  - (iii) the Firm ceases to be the Client's agent for the purposes of the Contract (whether by the initiative of the Client or the Firm)
  - (iv) Phoenix Wealth decides that, in its absolute opinion, the payment becomes contrary to the FCA Handbook or the general principle of investor protection or treating customers fairly or
  - (v) the Firm, being an individual, dies, becomes bankrupt, compounds with or assigns his estate or effects for the benefit of creditors, has his goods sized in execution or, where the Firm is a company, the Firm goes into liquidation or receivership or becomes subject to an administration order other than for the purposes of a solvent amalgamation or reconstruction.
- 4.3.6 Where FAR is payable in relation to ongoing advice to the Client, Phoenix Wealth will reserve the right to cease or amend paying Flexible Adviser Remuneration where the Client instructs Phoenix Wealth to do so.
- 4.3.7 If, at the initiative of the Client, the Firm is newly appointed as the agent of the Client in respect of an existing Contract, any existing Flexible Adviser Remuneration arrangements already in force will only be transferred to the Firm if it and the Client confirm in writing that the Flexible Adviser Remuneration shall be passed to the Firm and the Firm ensures that it is entitled to receive Flexible Adviser Remuneration in accordance with the FCA Handbook.
- 4.3.8 It is the responsibility of the Firm to ensure it is appropriately authorised and has the appropriate permissions to introduce Business to Phoenix Wealth and any Flexible Adviser Remuneration paid in respect of Business introduced without authorisation or without the appropriate permissions, and cancelled in exercise of any statutory right shall be repaid to Phoenix Wealth. In the event the Firm is in breach of this Clause it shall repay to Phoenix Wealth any payments made which it was not entitled to receive and shall indemnify Phoenix Wealth against any loss sustained by Phoenix Wealth as a result of such breach of this Clause 4.3.8 or any other breach of the Terms of Business.
- 4.3.9 If any amount is paid in error to the Firm Phoenix Wealth shall be entitled to demand repayment of such amounts from the Firm.

#### 4.4 Funded Initial Commission

In the event that Funded Initial Commission has been paid by Phoenix Wealth in relation to any Legacy Business and deductions against the Contract are ongoing the following provisions in this Clause 4.4 shall apply:

4.4.1 Where Funded Initial Commission has been paid in relation to Legacy Business, Phoenix Wealth will continue to levy an explicit charge by way of deductions over a specified period (in addition to any other applicable charges) against the Contract in respect of which Funded Initial Commission has been paid, based on the agreed rate or amount of Funded Initial Commission. Phoenix Wealth reserves the right to disclose to the Client at any time the details of the Funded Initial Commission paid to the Firm and of the corresponding charge in such manner as it thinks fit (in addition to any mandatory disclosure requirements).

4.4.2 For the avoidance of doubt no Funded Initial Commission shall be deemed to have been due and owing to the Firm until the first Funded Initial Commission recovery charge has been deducted from the Contract.

4.4.3 If such Contract is cancelled or made paid-up for any reason or contributions are reduced and Phoenix Wealth has not yet fully recovered the Funded Initial Commission through the charge levied against the Contract, Phoenix Wealth may recover the outstanding amount from the value of the Contract. If the Contract or any part of the Contract has an insufficient value to cover the outstanding amount or the payment of any outstanding amount would reduce the Contract, or relevant part of the Contract, value to nil Phoenix Wealth may either take the value of the Contract and recover any balance from the Firm or recover the whole outstanding amount from the Firm as follows:

- where Remuneration is credited to the Firm in respect of any other Business introduced by the Firm, Phoenix Wealth shall have the right to offset the balance of the outstanding amount (or any part thereof) against any other Remuneration payments due to the Firm under other Contracts and/or
- it may request repayment of that amount (or any part thereof) from the Firm directly.

4.4.4 In the event that the Firm (the 'Transferor') transfers its clients to another firm (the 'Transferee') the Transferor will remain liable for repayment of Funded Initial Commission under Clause 4.4.3 until such time as Phoenix Wealth receives written confirmation from the Transferee that it will be liable for that repayment. Where such transfer occurs, the Transferee will be liable to Phoenix Wealth retrospectively for the repayment of Funded Initial Commission on the same terms as the Transferor.

4.4.5 It is the responsibility of the Firm to ensure it is appropriately authorised and has the appropriate permissions to introduce Business to Phoenix Wealth and any Funded Initial Commission paid in respect of Business introduced without authorisation or without the appropriate permissions, and cancelled in exercise of any statutory right shall be repaid

to Phoenix Wealth. The Firm agrees to indemnify Phoenix Wealth against any loss sustained by Phoenix Wealth arising out of Business introduced without authorisation or without the appropriate permissions or as a result of any other breach of the Terms of Business.

4.4.6 Where any liability to Phoenix Wealth arises under Clause 4.4.5 and Remuneration is credited to the Firm in respect of any other Business introduced by the Firm, Phoenix Wealth shall have the right to effect reimbursement by setting off that amount against any other Remuneration payments due to the Firm under any other Contracts and/or to request repayment of that amount (or any part thereof) from the Firm directly.

4.4.7 Where the Firm is required to make any direct repayment to Phoenix Wealth under Clause 4.4.6 Clause 4.1.8 shall apply.

#### 4.5 Initial Commission (Applicable to Funded Initial Commission & Flexible Adviser Remuneration)

4.5.1 Phoenix Wealth shall not be liable for any loss incurred by the Firm as a result of the Firm having assigned its right to receive Initial Commission from Phoenix Wealth in respect of the Contract to a third party.

4.5.2 In default of the Firm supplying Phoenix Wealth with written confirmation of the existence, rate and frequency of its required Flexible Adviser Remuneration or of the rate or amount of agreed Funded Initial Commission for the introduction of Business, such Business shall be deemed to have been accepted on terms that do not include the payment of any Flexible Adviser Remuneration or Funded Initial Commission.

4.5.3 If a Contract was cancelled from inception due to either:

- (i) the Client exercising his right to cancel the Contract as described within the FCA Handbook or
- (ii) in the case of Flexible Adviser Remuneration, the mutual agreement of the Client and Phoenix Wealth or
- (iii) in the case of Funded Initial Commission, the Client being deemed ineligible for the particular Contract.

the Firm shall repay to Phoenix Wealth the whole amount of the Flexible Adviser Remuneration or of the Funded Initial Commission received in respect of the Contract.

4.5.4 For the avoidance of doubt, no Initial Commission should have been paid on any Contract written on an adviser's own life, own business or own family basis ('own family' includes but is not limited to spouses, partners, cohabitants, parents, children, siblings and grandchildren). In the event that Phoenix Wealth discovers Initial Commission had been paid by mistake in connection with such Contract, it shall be recoverable by Phoenix Wealth immediately.

4.5.5 In the event that the Firm (the 'Transferor') transfers its clients to another firm (the 'Transferee') the Transferor will remain liable for repayment of Funded Initial Commission or Flexible Adviser Remuneration

in accordance with these Terms of Business until such time as Phoenix Wealth receives written confirmation from the Transferee that it will be liable for that repayment. Where such transfer occurs, the Transferee will be liable to Phoenix Wealth retrospectively for the repayment of Funded Initial Commission or Flexible Adviser Remuneration on the same terms as the Transferor.

- 4.5.6 Any repayment by the Firm of Initial Commission due in accordance with this Terms of Business and not paid to Phoenix Wealth within four months of the formal demand will be reported to the FCA in accordance with their guidelines.

## 5. DOCUMENTATION AND CLIENT COMMUNICATIONS

- 5.1 The Firm must pass on immediately, without amendment, any documentation, which is supplied by Phoenix Wealth for the benefit of, or completion by the Client, or provided by the Client in relation to the Contract. Phoenix Wealth will endeavour to ensure that such documentation is processed expeditiously upon receipt.
- 5.2 The Firm is responsible for ensuring that it analyses the suitability and accuracy of any documentation provided by Phoenix Wealth for the Firm's Client. The Firm should ensure that it understands the products and services offered by Phoenix Wealth at or before the point of sale to a Client.
- 5.3 The Firm should seek clarification from Phoenix Wealth in the event that the Firm deems this necessary to ensure its understanding of such products or services.
- 5.4 Phoenix Wealth reserves the right to send communications direct to the Client, and where Phoenix Wealth deems it appropriate we will send copies of such communication to the Firm.
- 5.5 All books and documents and computer software and hardware belonging to Phoenix Wealth and in the possession of the Firm must at all times be made available to Phoenix Wealth by the Firm on demand, unless the Firm and Phoenix Wealth have agreed otherwise and such agreement is documented in writing.
- 5.6 The Firm must provide the Client with a copy of the Key Investor Information Document (KIID) when investing in a UCITS scheme or EU UCITS scheme, or (where a KIID is available) for a Non UCITS Retail scheme.

## 6. PAYMENTS THROUGH THE FIRM

- 6.1 If the Firm undertakes to the Client to pass monies to the Trustee (only in respect of the Self-invested pension option) or Phoenix Wealth, he must do so promptly without deduction of Remuneration. The Firm agrees that they will hold the credit risk for such monies until such time as Phoenix Wealth has received it.
- 6.2 The Firm has no authority to collect monies or issue receipts on behalf of Phoenix Wealth unless expressly authorised to do so in writing.

## 7. DATA PROTECTION AND DISCLOSURE

- 7.1 The parties agree that they will at all times comply with the provisions and obligations imposed on them by the Data Protection Act 2018 (the "2018 Act") in

respect of the Client's personal data. In particular, the parties acknowledge and agree that they are joint "Data Controllers" as defined under the 2018 Act. The parties agree that they will maintain adequate security measures in respect of the Client's personal data and take all reasonable steps to prevent unauthorised access to the same. Phoenix Wealth agrees that where the Firm is an individual, it will at all times comply with the 2018 Act in respect of the Firm's personal data.

- 7.2 Phoenix Wealth shall be entitled to process, share and use, and the Firm consents to Phoenix Wealth's processing, sharing and use of, any information or data supplied by the Firm to Phoenix Wealth for the purposes of administration of the Business with the Firm, exchanging information with any other contracting parties of Phoenix Wealth, conducting marketing research (either alone or in conjunction with another party), for preparing strategic or other marketing plans (either alone or in conjunction with another party), and for the purposes of measuring product sales or product performance (either alone or in conjunction with another party). The Firm shall provide Phoenix Wealth with further information about the Client's identity and tax residence upon request by Phoenix Wealth at any time (including after a Client has ceased to be a Client). This further information may include information about the identity and tax residence of individuals associated with the Client where the Client is not an individual. It is the Firm's responsibility to inform Phoenix Wealth of any changes or updates in any information provided to Phoenix Wealth. You acknowledge that we may be required to disclose this information and other personal data of a Client to the tax authority(ies) of the Client's country(ies) of tax residence or HMRC, and otherwise co-operate with formal requests from such tax authority(ies). Phoenix Wealth shall also be entitled to disclose, and the Firm consents to Phoenix Wealth's disclosure of any information or data supplied by the Firm to Phoenix Wealth to any party contracting with Phoenix Wealth or otherwise to any party as is consistent with the effecting of the aforementioned approved uses of such information.
- 7.3 The Firm warrants that it has fairly and lawfully obtained the Client's consent, and at all times, it shall maintain the Client's consent to process their personal data in accordance with the 2018 Act and as permitted under this Agreement.

## 8. CONFIDENTIALITY

The Firm undertakes that it shall not for the duration of these Terms of Business or at any time after their termination use divulge or communicate to any person (except as may be required by law or any legal or regulatory authority) any information concerning Phoenix Wealth which may have or may in future come to its knowledge as a result of its participation in these Terms of Business. The Firm shall use all reasonable endeavours to prevent the publication or disclosure of any such information by any third party (including any member of its group).

## 9. COMPLAINTS

- 9.1 The Firm undertakes that all complaints made by Clients (where Phoenix Wealth is responsible for the complaint in accordance with the FCA Handbook) shall be notified immediately and in any event not later than five Business days, to Phoenix Wealth's Customer

Services Department and the Firm shall advise the Client of the same. The Firm shall use its reasonable endeavours to provide Phoenix Wealth and its authorised representatives with all relevant information and documentation relating to a complaint as soon as practicably possible.

- 9.2 Phoenix Wealth undertakes that all complaints made by Clients (where the Firm is responsible for the complaint in accordance with the FCA Handbook) shall be notified immediately and in any event not later than five Business days, to the Firm at its address set out in these Terms of Business and Phoenix Wealth shall advise the Client of the same. Phoenix Wealth shall use its reasonable endeavours to provide the Firm with all relevant information and documentation relating to a complaint as soon as practicably possible.
- 9.3 The Firm shall indemnify Phoenix Wealth against any and all liabilities suffered by or, as applicable, made or instituted against Phoenix Wealth to the extent the same arise directly from the negligence of the Firm in its dealing with complaints provided that the Firm shall not be liable under this Clause 9.3 to the extent the liability concerned arises from the negligence, wilful default or fraud of Phoenix Wealth.

## 10. VARIATION AND TERMINATION

- 10.1 The Firm may terminate these Terms of Business by giving one month's written notice to Phoenix Wealth.
- 10.2 Phoenix Wealth may vary or terminate these Terms of Business by giving one month's notice to the Firm in any durable medium as such term is defined in the FCA Handbook. Should Phoenix Wealth be required to vary or terminate due to statutory or regulatory requirements being imposed upon it and such variation or termination will take effect earlier than the notice period then Phoenix Wealth will give notice to the Firm of the termination or variation as soon as reasonably practicable.
- 10.3 Phoenix Wealth reserves the right to terminate these Terms of Business with immediate effect on written notice to the Firm and cease to make further payment of Remuneration to the Firm in the event of the occurrence of any of the following:
- (i) if the Firm ceases to trade (or threatens to cease to trade) and in the case of a partnership, is dissolved (or threatens to dissolve)
  - (ii) if the Firm is a company (and other than for the purposes of a solvent amalgamation):
    - (a) upon a receiver being appointed over any of its assets or property or
    - (b) upon a petition being issued for the appointment of an administrator or
    - (c) upon a liquidator being appointed or a petition being issued to wind it up or
  - (iii) if the Firm is an individual(s):
    - (a) upon becoming bankrupt or
    - (b) upon entering into an arrangement with creditors or
  - (iv) if the Firm's authorisation or exempt status under the Act is suspended or cancelled for any reason or the Firm ceases to have the appropriate permissions to introduce Business

- (v) if the Firm commits a material breach of these Terms of Business.

- 10.4 Any variation or cancellation will not affect Contracts in force or proposals for Contracts received by Phoenix Wealth before the variation to or cancellation of these Terms of Business takes effect unless such variation or cancellation is caused by factors outside the control of Phoenix Wealth.
- 10.5 The Firm shall keep Phoenix Wealth promptly informed in writing of any facts known to it within the scope of Clause 10.3 of these Terms of Business.
- 10.6 Notwithstanding the termination of these Terms of Business or the withdrawal of the authorisation (or exempt status) of the Firm, the Firm agrees that the consent given in Clause 7 of these Terms of Business relating to data protection and disclosure of information shall continue to remain valid notwithstanding such termination or withdrawal.

## 11. INDEMNITY

The Firm will indemnify Phoenix Wealth against any loss sustained by Phoenix Wealth arising from any failure by the Firm to comply with the provisions of the Act, any regulations made thereunder and the FCA Handbook any breach by the Firm of any of the terms of these Terms of Business, or the provision to Phoenix Wealth of incorrect information or the non-provision of information to Phoenix Wealth which is required to be provided under these Terms of Business.

## 12. NOTICE

- 12.1 Any notice or other communication to be given by Phoenix Wealth hereunder may be delivered personally or sent by post or email to the Firm at the last known address or email address of the Firm of which Phoenix Wealth had notice. Any notice or communication to be given by the Firm hereunder may be delivered personally or sent by post to Phoenix Wealth at the Specified Address.
- 12.2 In the absence of other evidence of the time of receipt, any such notice or communication shall be deemed to have been served as follows:-
- (i) if personally delivered, at the time of delivery at the said address
  - (ii) if sent by post at the expiration of two Business days after posting.
- 12.3 Where notices or other communications are sent by electronic mail then such notice or communication shall be deemed to be received at the time of transmission unless they are subject to receipt of a confirmation of unsuccessful transmission by the sender.

## 13. ANTI MONEY LAUNDERING

- 13.1 Evidence of the identity and verification of all Clients and third parties introduced by the Firm to Phoenix Wealth and evidence of the identity and verification of all contributions paid or intended to be paid by Clients and third parties must have been obtained and recorded under procedures maintained by the Firm. Such documentation and information will be obtained by the Firm in accordance with the provisions of the European Council Directive on the prevention of money laundering and terrorist financing, the UK Money



Laundering Regulations, the rules set out in the Senior Management Arrangements, Systems and Controls sourcebook of the FCA Handbook, the current guidance notes for the UK Financial Services Sector published by the Joint Money Laundering Steering Group and any substitutions or amendments of or additions to, any of the aforementioned provisions and any requirements of Phoenix Wealth from time to time notified to the Firm.

13.2 The Firm will, without detracting from the obligations referred to above, forward to Phoenix Wealth along with documents for the Business, such duly completed forms relating to verification of clients, third parties and source of funds together with any supporting documentation as Phoenix Wealth shall require and notify to the Firm from time to time (including after a Business has closed). The Firm consents to Phoenix Wealth relying on the identification and verification evidence obtained by the Firm for Clients and third parties. Phoenix Wealth shall not be responsible for any errors in the evidence, or omissions of the Firm in the provision of this information to Phoenix Wealth.

13.3 The Firm will retain all records in relation to the evidence referred to in Clauses 13.1 and 13.2 in accordance with the FCA Handbook and UK Money Laundering Regulations, and agrees to retain all records of identity and verification of identity provided or undertaken in connection with these Terms of Business for so long as Phoenix Wealth is required to comply with legal and regulatory obligations in relation to the retention of such records. Such records must be made available to Phoenix Wealth at all times and even in the event of the Firm no longer falling under the definition of Firm in these Terms of Business.

## **14. TAXES**

The Firm acknowledges that Phoenix Wealth will deduct any tax charge for which Phoenix Wealth is required to deduct (if any) in order to comply with legal or regulatory obligations from any payment made by Phoenix Wealth in respect of any Bonds.

## **15. INTELLECTUAL PROPERTY RIGHTS**

The copyright, patent, trademark design rights and all other intellectual property rights in the Phoenix Wealth name and logo and in any document produced by Phoenix Wealth or any member of the Phoenix Group shall as between Phoenix Wealth and the Firm remain the sole property of Phoenix Wealth and the Firm shall not at any time question or dispute the ownership of such rights.

## **16. ELECTRONIC ACCESS**

The Firm may require Electronic Access from time to time. Phoenix Wealth's terms and conditions relating to Electronic Access are set out in the Electronic Access Agreement in the Appendix and form part of these Terms of Business. In entering into these Terms of Business the Firm is deemed to have accepted the Electronic Access terms and conditions. In addition, in order to obtain the Electronic Access the Firm must apply to Phoenix Wealth as set out in Clause 2 of the Agreement.

## **17. SEVERANCE**

In the event of a conflict between any provisions of these Terms of Business and any law, regulation or decree affecting these Terms of Business the provision of these Terms of Business so affected shall, where practicable, be curtailed and limited to the extent necessary to bring it within the requirement of such law, regulation or decree but otherwise it shall not render null and void any other provisions of these Terms of Business.

## **18. RELATIONSHIP OF PARTIES**

Nothing in these Terms of Business shall be construed as creating a partnership or joint venture of any kind between the parties, no party shall have the authority to bind the other party or to contract in the name of, or to enforce or create a liability against the other party in any way for any purpose unless expressly authorised in these Terms of Business.

## **19. EXCLUSION OF THIRD PARTY RIGHTS**

The parties confirm that no term of these Terms of Business is enforceable under the Contracts (Rights of Third Parties) Act 1999 by a person who is not a party to these Terms of Business.

## **20. NO WAIVER**

The failure to exercise or delay in exercising a right or remedy under these Terms of Business shall not constitute a waiver of the right or remedy or a waiver of any other rights or remedies. No single or partial exercise of any right or remedy under these Terms of Business shall prevent any further exercise of the right or remedy or the exercise of any other right or remedy.

## **21. ASSIGNMENT**

Phoenix Wealth shall have the right to assign any of its rights and benefits pursuant to these Terms of Business (and to subcontract, delegate, or appoint as agents in respect of any of its obligations pursuant to these Terms of Business) to any other company in the Phoenix Group. The Firm shall not assign any of its rights and benefits pursuant to these Terms of Business to any third party without the prior written consent of Phoenix Wealth.

## **22. GOVERNING LAW AND JURISDICTION**

These Terms of Business shall be governed and construed in accordance with English Law and shall be subject to the exclusive jurisdiction of the Courts of England.

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# APPENDIX

## Electronic Access Agreement to Terms of Business

### 1. STATUS OF THE AGREEMENT

- 1.1 This Agreement is in addition to and supplemental to and shall form a single agreement with the Terms of Business. Any terms not defined in this Agreement shall be construed as having the meanings given in the Terms of Business unless the context requires otherwise. In the event of any conflict between this Agreement and the Terms of Business, the terms of this Agreement shall prevail.
- 1.2 This Agreement specifically relates to the provision of Electronic Access to the Firm (and such employees of the Firm who require Electronic Access who for the purpose of this Agreement shall be known as Authorised Employees), being access to the services provided by Phoenix Wealth on its websites from time to time but excludes access by Firms and their employees to the general adviser website which can be accessed by registration directly on the Phoenix Wealth website. For the avoidance of doubt Authorised Employees do not include Appointed Representatives of Network Firms.

### 2. ELECTRONIC ACCESS

- 2.1 Phoenix Wealth grants Electronic Access to the Firm limited to the servicing section of Phoenix Wealth's website as it shall authorise from time to time.
- 2.2 In order to gain Electronic Access, the Firm has entered into the Terms of Business of which this Agreement forms part.
- 2.3 In order that the Authorised Employees of the Firm may obtain Electronic Access, they must first register on the Phoenix Wealth website.
- 2.4 Phoenix Wealth shall provide the Firm's Authorised Employees with a log-in code, password, chip and pin number, digital certificate or such other security details in use by Phoenix Wealth at the relevant time ("the Security Details") to enable them to gain Electronic Access. The Security Details will be sent by an appropriate secure communications mechanism, or any other method that Phoenix Wealth deems appropriate. Prior to gaining initial access to any of the tools on the website the Authorised Employee will be asked to agree to comply with Phoenix Wealth's standard terms of use by means of an electronic page. Access will not be granted until such agreement has been obtained.
- 2.5 The Firm shall ensure that any Security Details issued to it or to its Authorised Employees, shall remain confidential at all times and shall only be used as authorised and directed by Phoenix Wealth. Phoenix Wealth reserves the right, as a condition of supplying

the Firm and its Authorised Employees with the Security Details to review with the Firm the manner in which it proposes to store, protect and gain or share access to the Security Details for the purpose of gaining Electronic Access. The Firm undertakes to implement properly and promptly any reasonable request by Phoenix Wealth for a change or addition to that manner.

- 2.6 The Firm shall be liable for all access to the Electronic Access and subsequent usage that is gained by the use of the Security Details issued to it by Phoenix Wealth whether the usage is authorised by the Firm or not.
- 2.7 The Firm undertakes that it shall notify Phoenix Wealth in the event that an Authorised Employee's access to the Electronic Access ceases to be authorised by the Firm by virtue of his leaving the employment of the Firm or for any other reason whatsoever. Upon receipt of such notification, Phoenix Wealth shall deactivate the Authorised Employee's secure profile. Phoenix Wealth shall not be liable for any losses, costs or damage to the Firm or its Clients that may be incurred as a result of any unauthorised use of the Electronic Access prior to receipt of such notification.

### 3. USE OF ELECTRONIC ACCESS

- 3.1 The Firm agrees:
  - 3.1.1 to use the Electronic Access only for its internal and proper business purposes and not to use it in the operation of any services in respect of any third party except with Phoenix Wealth's prior written agreement and
  - 3.1.2 to comply with all laws, rules, regulations and duties applicable to its use of the Electronic Access and
  - 3.1.3 to notify Phoenix Wealth immediately that it becomes aware of any unauthorised use of the Electronic Access or any other breach of security and
  - 3.1.4 not to modify or enhance, copy, distribute, disassemble, reverse engineer or decompile (whether for error correction or any other reason) any software, text, graphics, file, scripts or other content or materials forming part of the Electronic Access without obtaining Phoenix Wealth's prior written consent and
  - 3.1.5 not to remove any proprietary notice included in the Electronic Access or on any media comprised in/or renewed via the Electronic Access or documentation provided by Phoenix Wealth to the Firm.

## 4. CONFIDENTIALITY

- 4.1 The Firm shall keep confidential at all times information relating to the Electronic Access and any software, text, graphics, files, scripts or other content or materials, any database and any proprietary data, processes, information and documentation made available to the Firm, other than that which is or becomes part of the public domain, ("Confidential Information"). The Firm shall be permitted to disclose Confidential Information to any person with the prior written consent of Phoenix Wealth or to the extent required by law, any applicable regulation or any binding judgement, order or requirement of any court or other competent authority.
- 4.2 The Firm shall procure that its Authorised Employees shall comply at all times with the terms of Clause 4.1.

## 5. SUSPENSION AND TERMINATION

- 5.1 Phoenix Wealth has the right to suspend or withdraw, whether permanently or temporarily, the Electronic Access at any time if the Firm is in breach of any term of the Terms of Business or this Agreement.
- 5.2 This Agreement will terminate upon any party giving one month's written notice of termination to the other parties.
- 5.3 This Agreement will terminate automatically upon the termination (for whatever reason) of the Terms of Business.

## 6. LIABILITY

- 6.1 Without limiting the provisions of the Terms of Business, Phoenix Wealth shall not be liable to the Firm for any loss that the Firm suffers as a result of any delay or defect in or failure of the whole or any part of (or any combination of) the Firm's computer systems or the Internet.
- 6.2 Subject to Clauses 6.1, 6.3 and 6.4 Phoenix Wealth shall be liable for loss and damage incurred by the Firm only to the extent that such loss or damage arises as a direct result of Phoenix Wealth's negligence.
- 6.3 In no event shall Phoenix Wealth be liable for any special, indirect or consequential damages including, without limitation, loss of business, loss of profit, loss or corruption of data, or wasted management time, which may be incurred or experienced as a result of the use, inability to use or reliance on the Electronic Access or any information within the servicing section of Phoenix Wealth's website. Any limitations or restrictions on the liability of any party to this Agreement shall not apply to any liability for fraud, death or for personal injury resulting from negligence.
- 6.4 Except as set out in this Agreement, all conditions, warranties and representations whether express or implied by statute, common law or otherwise, in relation to the Electronic Access are excluded.
- 6.5 Phoenix Wealth's entire liability shall be limited, in respect of each event or each series of events, to £5 million pounds sterling.
- 6.6 Nothing contained in this Agreement shall be construed as limiting or excluding any rights which any party has under the Financial Services and Markets Act 2000 or the FCA Handbook (or any successor legislation or rules).

## 7. INDEMNITY

- 7.1 The Firm will make reasonable endeavours to try to prevent introducing computer viruses, worms, software, bombs or similar items into Phoenix Wealth's website. Phoenix Wealth will take reasonable precautions to prevent the introduction of such items to its website.
- 7.2 The Firm shall indemnify, protect and hold Phoenix Wealth harmless from and against all losses, liabilities, judgements, suits, actions, proceedings, claims, damages and costs including legal fees resulting from or arising out of any act or omission by the Firm or the Authorised Employee's use of the Electronic Access or access by any other person obtaining access to the Electronic Access through the Firm.

## 8. INTELLECTUAL PROPERTY

The Firm acknowledges that all Intellectual Property rights contained in the Electronic

Access and the content of the websites it accesses and Phoenix Wealth's products belong to Phoenix Wealth, or are validly licensed by it and will indemnify Phoenix Wealth against any losses, liabilities, judgements, suits, actions, proceedings, claims, damages and costs including legal fees resulting from or arising out of any act or omission by the Firm or its Authorised Employees that infringes these rights.

## 9. DATA PROTECTION

Each party will ensure that, in relation to any personal data provided or accessed through the Electronic Access, the provision and use of such data will comply with the General Data Protection Regulation (2016/679) and Data Protection Act 2018 (as amended from time to time) and any other applicable data protection law or regulation. Phoenix Wealth will only use personal data as set out at [www.phoenixwealth.co.uk/how-we-use-your-personal-information/](http://www.phoenixwealth.co.uk/how-we-use-your-personal-information/)

## 10. FORCE MAJEURE

No party shall be liable to the other parties for any failure to fulfil its obligations under this Agreement insofar as the performance of such obligation is prevented by circumstances or events beyond the reasonable control of that party (including without limitation any act of God, strike, lockout or other form of industrial action (except by employees of the party in question or its assigns or subcontractors), accidents, fires, explosion, failure of equipment or machinery (except equipment or machinery of the party in question or its assigns or subcontractors), delays in transportations, war, civil commotions, riots, sabotage, applicable legislation and regulations thereunder and interruptions by government).



## CONTACT US

If you want more information about Phoenix Wealth please:

Call us on **0345 129 9993**

Available 8.30am – 5.30pm, Monday to Friday. As part of our commitment to quality service and security, telephone calls may be recorded.

Email us at

**customerservices@phoenixwealth.co.uk** - for Phoenix Wealth Pension Funds only plans

**sippenquiries@sipp-phoenixwealth.co.uk** - for Self invested plans

Please be aware that emails are not secure as they can be intercepted, so think carefully before sharing personal or confidential information in this way.

Visit us here **phoenixwealth.co.uk**

Write to us

For:

- Pension Funds only Plans write to Phoenix Wealth, Unit Linked Life & Pensions, PO Box 1393, Peterborough, PE2 2TP.
- Self-invested Plans write to Phoenix Wealth, Self Invested Pensions, PO Box 1394, Peterborough, PE2 2TQ.

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