

DATED: [ ]

**BUSINESS AGREEMENT**

Between

**Binary Capital Limited,**  
registered at 43-45 Dorset Street, London, England, W1U 7NA

AND

[ ]  
[ registered at ]

## Definitions

- a) In this Agreement:
  - i) 'Agreement' means all sections of this agreement
  - ii) 'Annual Management Charge' means, in relation to a Client, the annual management charge agreed between Binary Capital Limited ('BC') and the agent, to be paid by the client.
  - iii) 'Applicable Laws' means those laws, rules and regulations (including but not limited to the rules of the Financial Conduct Authority (or any regulatory authority that replaces it), the Financial Services and Markets Act 2000, the Data Protection Act 1998 and the Bribery Act 2010 applicable to the Agent and BC when providing financial services to Clients.
  - iv) 'Client' means any person who has entered into a Client Agreement with the Agent.
  - v) 'Agent' means the organisation whose entity name and registered address are entered at the top of this Agreement and includes that organisation, any subsidiaries of that organisation, any parent company and any other company in that organisation's group.
  - vi) 'Introduction' has the meaning given to it in Paragraph 2 of this Agreement and 'Introduce', 'Introduces' and 'Introduced' shall be read in relation to that meaning.
  - vii) 'KYC' means know your customer information
    - the basic customer due diligence information and data that financial services companies must gather in order to meet anti-money laundering requirements and to assess a Client's needs and requirements.
  - viii) 'Managed Portfolio Service' means a service under which BC manages a range of MPS Portfolios each managed on a discretionary basis to meet a defined investment objective and risk profile.
  - ix) 'MPS' means Managed Portfolio Service.
  - x) 'BC' means Binary Capital Limited.
  - xi) 'Suitability' means the regulatory obligation to ensure that advice or personal recommendations (including decisions to deal within a discretionary investment management service) are suitable having regard to the investment objectives, risk profile and circumstances of a Client.
- b) Headings in this Agreement are for ease of reference only and shall not affect construction.
- c) Unless the contrary intention appears, words importing the masculine gender include the feminine and vice versa and words in the singular include the plural and vice versa.

## 1. Commencement

- 1.1 This Agreement shall commence on (i) the date of the last signature in section 10 below; (ii) and will continue until it is terminated pursuant to Section 8.

## **2. Introductions**

- 2.1 An Introduction shall take place when the Agent refers any person to directly or indirectly to BC with the intention that person shall use the BC MPS.

## **3. Obligations of BC**

- 3.1 BC appoints the Adviser as its Agent for the purposes of introducing investors to the MPS.
- 3.2 BC recognises that the investors are clients of the Agent.
- 3.3 Manage the portfolios in line within the pre-agreed risk mandate as advised by the Agent.
- 3.4 BC shall be responsible for providing discretionary investment management services, which may include providing advice on the construction of any MPS Portfolio or on asset allocation, fund selection or purchases and sales of investments for such MPS Portfolio and the general management of an investment portfolio.
- 3.5 To rebalance the portfolios on at least a six-monthly basis to ensure investors are invested in line with their agreed risk profile, or to rebalance as mutually agreed with the agent.
- 3.6 To promptly inform the Agent of any issues in relation to the risk ratings as and when BC becomes aware.
- 3.7 Not to communicate with investors introduced by the Agent other than communication expected under its regulatory obligations.
- 3.8 Not to offer investors any other product or service offered by BC or by any BC group company or any subsidiary without the prior approval of the Agent.
- 3.9 Should a client express an interest in any BC product or service BC must notify the Agent.

## **4. Financial Advice and Suitability**

- 4.1 The Agent understands and acknowledges that where a Client is Introduced and uses the Managed Portfolio Service, BC shall not provide any advice on the appropriateness and/or Suitability of the MPS to be provided and shall not carry out any assessment of Suitability or of the Client's risk profile or attitude to risk. Where the MPS service is provided to a Client the Agent is responsible for:
  - 4.1.1 collecting any KYC required by Applicable Laws;
  - 4.1.2 determining the Client's investment objectives and risk profile;
  - 4.1.3 assessing the Suitability of the MPS service for the Client;
  - 4.1.4 advising the Client as to the selection of an MPS Portfolio and assessing the Suitability of that chosen MPS Portfolio for the Client; and
  - 4.1.5 assessing the Suitability of the MPS Service and the chosen MPS Portfolio for the Client on an ongoing basis and advising the Client accordingly.
- 4.2 The Agent will be responsible for carrying out the Suitability Functions in respect of the Client.
- 4.3 BC accepts no liability to the Client where such liability arises due to an inaccurate assessment of Suitability or the Client's attitude to risk undertaken by the Agent or any failure to advise BC of any changes to that assessment over time. Should BC incur any such liability it will seek to recover all its losses relating to such liability (including without limitation its reasonable legal costs) from the Agent.

## **5. Fees and Adviser Charges**

- 5.1 BC will be entitled to charge Clients fees for providing its MPS services and the amount of any Fee charged by BC to a Client is included in Schedule 1. Fees may not be higher than what is stated in Schedule 1, but may be lower, this will be discussed at the outset and mutually agreed with the Agent.
- 5.2 The Agent acknowledges and agrees that it will not be entitled to receive any Commissions from BC.
- 5.3 It is the responsibility of the Agent to advise its Clients and BC of any amount of VAT that should be added to any Adviser Charges and to properly account for this. The Agent must indicate whether or not VAT is to be added to Adviser Charges.

## **6. Applicable laws and regulation**

- 6.1 The parties agree to comply (and ensure that their employees and agents comply) in all that they do with all Applicable Laws including, but not limited to, the Financial Services and Markets Act 2000, the rules and guidance of the Financial Conduct Authority (or such body as replaces it), the Data Protection Act 2018, the Bribery Act 2010 and the Joint Money Laundering Steering Group guidance.
- 6.2 The Agent shall comply with all reasonable requests BC may make from time to time to assist it in complying with any Applicable Laws.
- 6.3 The Agent shall not by its acts or omissions (or the acts or omissions of its employees or agents) and whether through negligence or otherwise allow any breach of the Applicable Laws.

## **7. Anti-money laundering and identity verification**

- 7.1 In furtherance of their obligations under Clause 6 (Applicable Laws and Regulation), above, the parties shall ensure that proper anti-money laundering and identity verification checks are carried out in relation to any person who applies to become a Client in accordance with the guidance of the Joint Money Laundering Steering Group and best industry practice.
- 7.2 The Agent warrants and represents that, in respect of any Introduction, he shall have verified the identity of the person referred to BC and he shall keep on file any documentary evidence used for such purpose for a period of at least five years from the date on which the documentary evidence was first relied upon;
- 7.3 For the avoidance of doubt BC shall be under no obligation to accept any identity verification certificate or other documentation as evidence of any person's identity.

## **8. Variation and termination**

- 8.1 This Agreement shall form the entire agreement between the parties and supersedes any previous arrangement, agreement or understanding between the parties, whether set out in any contract or other written document or expressed orally and the Agent understands and acknowledges that any representation (whether made orally or contained in any electronic communication or written document) shall not form part of this Agreement.
- 8.2 This Agreement may be varied at any time by both parties giving their written consent to such variation.
- 8.3 Either Party may terminate this Agreement at any time by giving 28 days' written notice to the other.

**9. Miscellaneous**

- 9.1 If any part, term or provision of this Agreement is found to be invalid by any court having competent jurisdiction, the invalidity of that part, term or provision will not affect the validity of the remaining parts, terms or provisions of this Agreement, which shall remain in full force and effect.
- 9.2 This Agreement shall be governed by and interpreted in accordance with English law and the courts of England shall have exclusive jurisdiction to settle any dispute which may arise out of, under, or in connection with this Agreement.

**10. Signing**

Where the Agent is an Appointed Representative, the Agent warrants and represents that it has the authority to enter into this agreement for its own account and on behalf of its principal.

Where the Agent is a Network (or the principal of an Appointed Representative) it agrees to be bound by the terms of this Agreement in respect of each Appointed Representative that signs this Agreement and of which the Agent is principal. The Agent is responsible for ensuring its Appointed Representatives perform their obligations under this Agreement and warrants that each of its Appointed Representatives has the authority to enter into an agreement with Binary Capital Limited.

**The Agent agrees to the terms set out in this Agreement.**

**Signed on behalf of The Agent**

Signature:	
Print Name:	
Position:	
Date:	

**Signed on behalf of Binary Capital Limited**

Signature:	
Print Name:	
Position:	
Date:	

## Schedule 1 Fees – MODEL PORTFOLIO SERVICE (MPS)

### 1. MPS Fees explained:

The management fee will be calculated and paid MONTHLY at an annual rate of **X%** of the current value of the Portfolio (“AUM”), as calculated by BC in accordance with this Agreement (“Management Fee”).

The Management Fee is calculated and shall accrue on a pro-rata basis based on a calendar month basis.

For the avoidance of doubt, the Management Fee is calculated follows:

*Management Fee paid for the month = AUM at the last trading day of the month x ((Management Fee rate of X%)/12 Calendar months)*