

## TERMS OF USE

### ACCESS TO FUNDS AT LLOYD'S ONLINE

These Terms of Use apply to the FAL Online system. You must read and accept these Terms of Use before accessing the Service. These Terms of Use are issued by Lloyd's.

#### **1. Definitions and Interpretation**

1.1 In these Terms of Use, the following terms shall have the following meanings:

**"Authorised Individual User"** means a named individual authorised to use the Service in accordance with these Terms of Use;

**"Bloomberg Data Terms"** means the terms and conditions set out in Schedule 1;

**"Business Day"** means Mondays to Fridays, excluding UK public holidays;

**"Business Hours"** means 9am – 5.30pm UK time on any Business Day;

**"Commencement Date"** has the meaning given in Clause 2.1;

**"Confidential Information"** means, in relation to either party, all information about or pertaining to the business affairs (including financial information, personnel or suppliers and similar information regarding its subcontractors, customers and clients) of either party or its group companies which is disclosed to the other party, its sub-contractors or agents or any of their respective personnel, or which is acquired by or otherwise comes to the knowledge of the other party, its group companies, sub-contractors or agents or any of their respective personnel whether directly or indirectly pursuant to and in the course of the provision of/access to the Service, or the performance of the parties' respective obligations under these Terms of Use. All Service Data shall be the Confidential Information of Service User;

**"Data Protection Legislation"** means the EU General Data Protection Regulation 2016/679 (the "GDPR"), the Data Protection Act 2018 (including any equivalent or implementing legislation) and any similar applicable laws and regulations, including without limitation data protection laws implemented in the UK post any exit by the UK from the European Union, and where applicable, the codes of practice issued by the Information Commissioner or a relevant regulator in relation to such legislation where such codes of practice are generally considered to be binding;

**"FAL"** means Funds at Lloyd's, as defined in the Lloyd's Membership Byelaw (No. 5 of 2005);

**"Flow Through Rights"** has the meaning given in Schedule 3;

**"Force Majeure Event"** means an event or circumstance due to any cause beyond the reasonable control of the affected party, including as a result of, fire, flood, explosion, acts of God, civil commotion, strikes (excluding the personnel of the party seeking relief under a Force Majeure Event), riots, insurrection, war, epidemic or acts of terrorism;

**"InvestCloud"** means InvestCloud, Inc. a company incorporated in Delaware with registered number C3581787;

**"InvestCloud Contract"** means the Platform Agreement between Lloyd's and InvestCloud, Inc dated 19 December 2019;

**"Laws"** means any law, statute, bye-law, regulation, order, regulatory policy (including any requirement or notice of any regulatory body), compulsory guidance or industry code of practice, rule of court or directives, delegated or subordinate legislation in force from time to time;

**“Lloyd’s”** means the Society incorporated by Lloyd’s Act 1871 by the name of Lloyd’s;

**“Lloyd’s Regulations”** means the Lloyd’s Acts 1871-1982 and all resolutions, byelaws and regulations made by the Council of Lloyd’s from time to time;

**“Market User”** means any third party to which Lloyd’s grants access to the Service in relation to FAL, including members’ agents and members (and their third party capital providers, investment managers and accountants) and includes (unless the context otherwise requires) Service User;

**“Member”** has the meaning given to that term in Lloyd’s Definitions Byelaw (No. 7 of 2005);

**“Sanctioned Jurisdiction”** means any country and/or region with respect to which the United States, United Kingdom or European Union maintains trade sanctions prohibiting the shipment or provision of services, goods, technology or software;

**“Sanctions”** means any financial sanctions administered or enforced by the US Department of Treasury’s Office of Foreign Assets Control, the United Nations Security Council, the European Union, Her Majesty’s Treasury or other relevant sanctions authority;

**“Sanctions List”** means any sanctions identification list maintained by the U.S. Department of the Treasury’s Office of Foreign Assets Control, the United Nations Security Council, the European Union, Her Majesty’s Treasury or other relevant sanctions authority;

**“Service”** means the hosted FAL Online service as described in the Service Documentation and as made available by Lloyd’s under these Terms of Use;

**“Service Data”** means all data and other information that Service User (through its Authorised Individual Users) inputs using the Service;

**“Service Documentation”** means manuals, instructions, guides, online tutorials and other information relating to Service User’s use of the Service as may be provided to Service User from time to time;

**“Service User”** means:

- a) a company, partnership, firm or other legal person accessing the Service through its Authorised Individual User(s); or
- b) a natural person accessing the Service on their own behalf as an Authorised Individual User;

**“Software”** means any computer program or programming and any embedded software tools or object libraries;

**“Subcontractors”** means Lloyd’s subcontractors and third-party data providers appointed from time to time during the Term in connection with the Service, which as at the Commencement Date includes InvestCloud and Bloomberg, L.P.;

**“Term”** means the term of these Terms of Use as set out in Clause 14;

**“Terms of Use”** means these clauses and schedules, as may be amended from time to time;

**“Third Party Depositor”** has the meaning given to that term in Lloyd’s Definitions Byelaw (No. 7 of 2005);

**“US Prohibited Party Lists”** means: (a) Specially Designated Nationals and Blocked Persons List maintained by the U.S. Department of the Treasury’s Office of Foreign Assets Control; (B) Foreign Sanctions Evaders List maintained by the U.S. Department of the Treasury’s Office of Foreign Assets Control; (C) U.S. Department of Commerce’s Denied Persons List or Entities List; and (D) U.S. Department of Commerce’s Entity List; and

"Use" means for Service User and its Authorised Individual Users to: (i) access and use both the Service and the Service Documentation; and (ii) input and upload data to the Service and download the data available through it.

1.2 In these Terms of Use (unless the context requires otherwise):

- 1.2.1. the words "including", "include", "for example", "in particular" and words of similar effect shall not limit the general effect of the words which precede them;
- 1.2.2. the terms "controller", "data subject", personal data and "processing" have the meanings given to them in the Data Protection Legislation;
- 1.2.3. reference to a party shall, unless the context otherwise requires, mean a party to these Terms of Use;
- 1.2.4. headings are for reference only and shall be ignored when construing these Terms of Use;
- 1.2.5. references to a Clause, Schedule or paragraph are references to a Clause, Schedule or paragraph of, or to, these Terms of Use; and
- 1.2.6. any reference to any statute, statutory provision or statutory instrument shall be deemed to include a reference to any such statute, statutory provision or statutory instrument as it is from time to time amended, extended, consolidated, re-enacted, replaced, superseded or otherwise converted, succeeded or modified or incorporated into law, and includes any bye-laws, licences, statutory instruments, rules, regulations, orders, notices, directions, consents or permissions made thereunder and any condition attaching thereto.

## 2. ACCESS TO THE SERVICE

- 2.1. These Terms of Use shall bind Service User from and including the date of first acceptance of these Terms of Use for and on behalf of Service User (the "**Commencement Date**"). For the avoidance of doubt, any subsequent acceptance or rejection of these Terms of Use shall not affect the validity or enforceability of these Terms of Use. These Terms of Use govern all use of the Service by or on behalf of Service User.
- 2.2. With effect from the Commencement Date and for the duration of the Term Lloyd's grants Service User a non-exclusive, revocable, non-transferable, non-sublicensable right to Use the Service and Service Documentation subject to these Terms of Use.
- 2.3. Service User may only permit access to the Service by its Authorised Individual Users.
- 2.4. Service User shall procure that any person wishing to access the Service on the Service User's behalf as an Authorised Individual User: (a) registers at Lloyds.com for a user account; (b) applies in writing to Lloyd's to be granted access to the Service and relevant data within the Service, by completing such forms as Lloyd's may require; (c) only applies for access to data within the Service relating to a Member or Third Party Depositor where the Service User and person is authorised to access such data by the Member or Third Party Depositor (as applicable); and (d) does not access the Service or data within the Service until access has been granted by Lloyd's.
- 2.5. Service User shall ensure that its Authorised Individual Users only access such information in the Service to which they have personally been granted access pursuant to Clause 2.4 above.

## 3. SERVICE USER RESPONSIBILITIES

- 3.1. Each Service User shall, and shall procure that its Authorised Individual Users shall:

- 3.1.1. use the Service in accordance with all applicable Laws;
  - 3.1.2. comply with the Acceptable Use Policy and, to the extent applicable to Service User, the Bloomberg Data Terms;
  - 3.1.3. not provide any instructions, effect any transactions or take any other action whatsoever in relation to a Member or Third Party Depositor or the FAL of a Member or Third Party Depositor without the authority of the Member or Third Party Depositor concerned; and
  - 3.1.4. ensure that all Authorised Individual User login and password details are kept secure and are not shared with or used by anyone other than the relevant Authorised Individual User and that such passwords are unique to the Service.
- 3.2. Service User undertakes to put systems and controls in place to prevent unauthorised access to the Service and to prevent viruses being transmitted or distributed by Service User through the Service, including the use and regular updating of commercially available virus detection Software.
- 3.3. Service User shall contact Lloyd's immediately if Service User knows or suspects that:
  - 3.3.1. any third party knows Service User's or one of its Authorised Individual User's password;
  - 3.3.2. someone else is trying to access Service User's or one of its Authorised Individual User's details;
  - 3.3.3. a breach of the Acceptable Use Policy has occurred, or an event or circumstance has occurred which might reasonably be expected to give rise to a claim or demand against Lloyd's; or
  - 3.3.4. a breach of security of the Service has or may have occurred.
- 3.4. Service User acknowledges and agrees that:
  - 3.4.1. it is responsible for the acts and omissions of any person to which it knowingly permits access to the Service as if those acts or omissions were its own;
  - 3.4.2. it shall ensure that its Authorised Individual Users comply with these Terms of Use and use their log in details to conduct business on behalf of Service User only; and
  - 3.4.3. it shall be responsible for checking and validating any data or information supplied through the Service before using such data or information within its business operations.

#### **4. SECURITY**

- 4.1. Lloyd's shall implement technical and organisational measures designed to:
  - 4.1.1. ensure the security, protection and confidentiality of Service Data;
  - 4.1.2. protect against any foreseeable threats or hazards to the security or integrity of Service Data;
  - 4.1.3. protect against unauthorised access to or use of Service Data; and

- 4.1.4. ensure that its Personnel are appropriately trained to maintain the confidentiality and security of Service Data.
- 4.2. Service User agrees that Lloyd's may suspend use of the Service at any time for reasonable security reasons. Lloyd's will, where practicable, provide Service User with advance notice of any such suspension and will use reasonable endeavours to restore the use of the Service as soon as practicable once the relevant security issue has abated.

## **5. SERVICE DATA**

- 5.1. Lloyd's is permitted to access and use, report on and disclose (including to its Subcontractors) Service Data:
  - 5.1.1. to the extent reasonably required to provide and monitor use of the Service;
  - 5.1.2. in accordance with the instructions of Service User's Authorised Individual Users or authorised representatives; and
  - 5.1.3. to access, use, report on and disclose Service Data for Lloyd's tax, regulatory, supervisory, oversight purposes including but not limited to the purposes set out in or required by any Lloyd's Regulation or other applicable Law (both during and after the Term).
- 5.2. Notwithstanding anything to the contrary in these Terms of Use, Lloyd's shall be entitled to create data derived from Service Data provided that such data is aggregated in such a way and to such an extent that it is not able to identify underlying Service Data (including with a Member or Third Party Depositor). Lloyd's may access, use, report on or disclose such data that has been aggregated in accordance with this Clause for any purpose it reasonably requires, including monitoring use of the Service, improving the functionality of the Service, tracking trends and other market analysis, market development, internal and external reporting and the making of any public statements or announcements.
- 5.3. Lloyd's will use reasonable commercial endeavours to keep copies or records (through a backup system, archive or otherwise) of Service Data. Service User may keep such copies or records of Service Data as may be necessary for its own purposes.
- 5.4. The Service uses strictly necessary cookies to enable Authorised Individual Users to use the features of the Service, and to allow the Service to work correctly.

## **6. LIABILITY AS BETWEEN LLOYD'S AND SERVICE USER**

- 6.1. Notwithstanding anything else in these Terms of Use, neither party limits or excludes its liability for:
  - 6.1.1. death or personal injury;
  - 6.1.2. fraud or fraudulent misrepresentation;
  - 6.1.3. any other liability that could not, as a matter of law, be excluded or limited; or
  - 6.1.4. in the case of Service User, a breach of Clause 3.1 of these Terms of Use.
- 6.2. Subject to Clause 6.1, Lloyd's shall not be liable for any losses arising in connection with the provision of and use of the Service and otherwise in connection with these Terms of Use, whether in contract, tort (including negligence), breach of statutory duty or otherwise.
- 6.3. Subject to Clause 6.1, neither party shall be liable for:

- 6.3.1. special, indirect or consequential loss; or
- 6.3.2. loss of profit, goodwill, business or opportunity (whether as direct or indirect losses).
- 6.4. Each party shall, as applicable, take all reasonable steps to mitigate and/or minimise any additional costs, losses and/or expenses incurred by it as a result of the other party's failure or delay to comply with any obligation under these Terms of Use.
- 6.5. Service User agrees to indemnify, defend and hold Lloyd's harmless from and against any liability, loss, damages, costs, claims and expenses (including reasonable legal fees) suffered or incurred by Lloyd's at any time as a result of a breach of Service User's warranties, representations or undertakings in Clause 7.2, Clause 7.5, Clause 11.7, 13.2, Clause 12.

## **7. LIABILITY AS BETWEEN INVESTCLOUD AND SERVICE USER**

- 7.1. Lloyd's warrants to Service User that as at the Commencement Date the Flow Through Rights set out in Schedule 3 are included in the InvestCloud Contract and Service User is stated to be a third party beneficiary, able to enforce such Flow Through Rights directly against InvestCloud (subject to the terms of the Third Party (Rights of Third Parties) Act 1999, and the terms of the InvestCloud Contract).
- 7.2. Service User acknowledges and agrees that except in respect of the Flow Through Rights expressly set out in the InvestCloud Contract, Service User shall have no rights to bring a claim of any kind and accordingly shall not bring a claim of any kind directly against InvestCloud in respect of the Service or in connection with these Terms of Use
- 7.3. The InvestCloud Contract provides that InvestCloud's liability to Service User in respect of the Flow Through Rights shall be unlimited.
- 7.4. Service User shall take all reasonable steps to mitigate and/or minimise any additional costs, losses and/or expenses incurred by it as a result of InvestCloud's failure or delay to comply with any of its obligations under the InvestCloud Contract, which would entitle the User to bring a claim against InvestCloud under the InvestCloud Contract pursuant to the Flow Through Rights.
- 7.5. Service User shall, before bringing or notifying InvestCloud of any claim or potential claim in relation to the Flow Through Rights, first notify Lloyd's in writing of its intention to do so and consult in reasonable detail with Lloyd's in relation to the proposed allegation or claims. Lloyd's will notify the relevant Service User where another Service User intends to bring or has brought a claim relating to the same default.

## **8. INTELLECTUAL PROPERTY RIGHTS**

- 8.1. Service User acknowledges and agrees that, as between the parties, Lloyd's and/or its licensors own all intellectual property rights in all Software, hardware, processes, documentation (including the Service Documentation) and other materials provided by or on behalf of Lloyd's in connection with the Service and in any material developed or produced in connection with these Terms of Use by Lloyd's, its officers, employees, subcontractors or agents. These Terms of Use do not grant Service User any rights to such intellectual property rights other than for the purpose of receiving the benefit of the Service.

## **9. CONFIDENTIALITY**

- 9.1. Lloyd's acknowledges that as between Lloyd's and Service User the content of Service Data is confidential to Service User.
- 9.2. Each party (each a "**Recipient**") agrees that it shall keep confidential any Confidential Information obtained from or relating to the other party (a "**Discloser**") and shall not without the prior written consent of the Discloser:

- 9.2.1. disclose it to any person other than to: (a) those of the Recipient's personnel, subcontractors, service providers or group companies who require access to the Confidential Information in order to perform the Recipient's obligations or exercise the Recipient's rights under these Terms of Use and who are subject to obligations of confidentiality at least as onerous as those set out in the Terms of Use; or (b) in the case of a Service User accessing data relating to a Member or Third Party Depositor, to the Member or Third Party Depositor to which such Confidential Information relates;
  - 9.2.2. copy or modify (or permit others to do so) any part of that Confidential Information, save as reasonably necessary for the performance of the Recipient's obligations or exercise of the Recipient's rights under these Terms of Use and provided that any copies shall be held subject to the terms of this Clause 9.
- 9.3. Clause 9.2 shall not apply to:
  - 9.3.1. any Confidential Information which is in or enters the public domain other than by breach of this Clause 9;
  - 9.3.2. any Confidential Information which is in the possession of the Recipient without restriction in relation to disclosure before the date of receipt from the Discloser;
  - 9.3.3. the use or disclosure of Confidential Information which is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;
  - 9.3.4. the use or disclosure of Confidential Information to the extent required by law or the order of any regulator, taxation authority, government body, stock exchange or court of competent judicial authority or, in the case of Lloyd's, the Lloyd's Regulations;
  - 9.3.5. the use or disclosure of Confidential Information to a Recipient's professional and legal advisers who are under obligations of confidentiality at least as onerous as those set out in this Clause 9; and
  - 9.3.6. the disclosure or use of any information which is independently developed by a Recipient without access to the Confidential Information.
- 9.4. In the event of any conflict between this Clause 9 and the rights and obligations in Clause 5, Clause 5 shall prevail.
- 9.5. In addition to Lloyd's other rights under these Terms of Use, Lloyd's shall be permitted to access and use the Service Data to the extent reasonably required on termination or expiry of these Terms of Use in order to provide Service User with access to Service Data or in respect of the migration of the Services by Lloyd's to a third party replacement service provider in place of InvestCloud.

## **10. SERVICE UPDATES AND SUPPORT**

- 10.1. Lloyd's may make improvements or changes to the Service from time to time. Any changes or improvements that are material as determined by Lloyd's in its Lloyd's sole discretion will be notified to Service Users.
- 10.2. Service User may report any failure or issue with the Service to Lloyd's by email at [FALOnline@lloyds.com](mailto:FALOnline@lloyds.com) or such other address or by such other method as may be notified to the Service User in the Service Documentation time to time.
- 10.3. Planned maintenance of the Service may occur at any time outside of Business Hours. Lloyd's shall notify Service User in advance in respect of any planned maintenance that is required to occur during Business Hours. Necessary maintenance work shall be carried out with the minimum of disruption to the Service as is reasonably possible.
- 10.4. The Service will be unavailable for approximately 30 minutes daily to allow information from the previous business day's trading to be uploaded and for other routine updates. It is initially intended that this period of downtime will begin at 2am (London time) daily and Lloyd's will take reasonable steps to inform you if this arrangement changes.

10.5. Service User shall be responsible for meeting any minimum IT requirements specified in the Service Documentation.

## **11. WARRANTIES AND COMMITMENTS**

11.1. The Service is provided “as is” and Lloyd’s makes no warranties of error free or uninterrupted use with respect to the Service. Service User acknowledges that its use of the Service may be interrupted due to faults in Service User’s network, systems or Software.

11.2. The services that are provided via the Service do not include, and do not purport to include, giving advice of any kind whatsoever; providing, arranging, explaining, advising on or promoting investment products or life insurance of any type whatsoever; acting as insurance brokers or intermediaries; acting as agents of any kind for Service User or for any service provider; providing brokerage or intermediary services of any kind whatsoever or assuming any of the duties of any such persons under any applicable legal system.

11.3. Lloyd’s does not represent that the Service is appropriate or available for use in any particular location or for any particular purpose. Service User is responsible for ensuring that its access to and use of the Service is in accordance with all Laws applicable to Service User.

11.4. The Service may contain content provided by or produced using data or information supplied by third-party providers to Lloyd’s. Lloyd’s shall have no liability or responsibility in connection with any of the data which is provided by such third-party providers, including any loss or damage resulting from any party acting or refraining from acting in reliance on the information provided by such third-party providers.

11.5. Lloyd’s will not be responsible for any delay or failure in the functioning of the Service caused by any act or omission of Service User. Lloyd’s shall be entitled to recover any costs and expenses it incurs as a result of a breach of these Terms of Use or the negligence of Service User or any of its Authorised Individual Users.

11.6. Service User will provide all assistance and information reasonably required by Lloyd’s in relation to Service User’s use of the Service;

11.7. Service User represents, warrants and undertakes as at the date of these Terms of Use, and on an ongoing basis throughout the Term, that:

11.7.1. the Service Data shall at all times be accurate, complete and up-to-date;

11.7.2. it has full authority, including where necessary the authority of its client or any other third party to which the Service Data relates, to provide the Service Data and for Lloyd’s and its Subcontractors to use the Service Data as anticipated by these Terms of Use;

11.7.3. it will comply, and procure that its Authorised Individual Users, agents, contractors and employees comply, to the extent applicable, with the Service User responsibilities set out herein, including those set out in Clause 3; and

11.7.4. Service User shall immediately notify Lloyd’s if it becomes aware that the warranties or undertakings in this Clause 11.7 are untrue or inaccurate.

11.8. Lloyd’s warrants that:

11.8.1. it will (at Service User’s cost) provide any information reasonably required by Service User in relation to the provision of the Service; and



- 11.8.2. it is permitted to grant Service User access to the Service as contemplated under these Terms of Use.
- 11.9. Save for the explicit warranties provided in these Terms of Use, Lloyd's give no warranties in respect of the Service and all warranties, representations and conditions of Lloyd's, whether express or implied, are, to the fullest extent permitted by law, excluded.

## **12. SANCTIONS**

- 12.1. Each party warrants, represents and undertakes that it is not owned or controlled by, or acting for or on behalf of, an individual or entity which is targeted by or otherwise subject to any Sanctions.
- 12.2. Service User acknowledges and represents on an ongoing basis that Service User will not (acting through its Authorised Individual Users) use the Service:
  - 12.2.1. in any Sanctioned Jurisdiction;
  - 12.2.2. for the benefit of the government of a Sanctioned Jurisdiction or a person located in or normally resident of a Sanctioned Jurisdiction;
  - 12.2.3. for the benefit of any national of a Sanctioned Jurisdiction, wherever located;
  - 12.2.4. for the benefit of anyone on any of the US Prohibited Party Lists;
  - 12.2.5. for the purpose of providing, financing or otherwise dealing in prohibited new equity or new debt of entities listed on any Sanctions List; or
  - 12.2.6. for any purpose that would be prohibited under US, UK or European Union law, including, without limitation, nuclear, chemical or biological weapons proliferation.

## **13. PERSONAL DATA**

- 13.1. Service User acknowledges that Lloyd's is the data controller in relation to the personal data that the Service User uploads, enters or otherwise makes available in or through the Service.
- 13.2. Service User represents, warrants and undertakes to Lloyd's in connection with any personal data that the Service User (acting through its Authorised Individual Users) uploads, enters or otherwise makes available in or through the Service that:
  - 13.2.1. at the time it is shared, to the best of its knowledge the personal data is accurate, up to date and limited to what is strictly necessary in connection with the use of the Service;
  - 13.2.2. Service User has obtained the personal data in accordance with the Data Protection Legislation and has provided (or will provide) all necessary privacy notices to any data subjects whose personal data comprises all or part of the personal data and has procured all necessary consents so that Lloyd's processing of the personal data pursuant to these Terms of Use complies with the Data Protection Legislation; and
  - 13.2.3. Service User has (or will at the required time have) one or more valid grounds for its processing of the personal data in accordance with these Terms of Use.
- 13.3. Service User must notify Lloyd's as soon as any of the above conditions regarding personal data expire or change so that personal data is not retained once:
  - 13.3.1. it is known to be inaccurate, unnecessary or there is no need for retaining it;
  - 13.3.2. valid grounds for the Service User processing the personal data have expired

- 13.4. Service User must immediately notify Lloyd's DPO ([data.protection@lloyds.com](mailto:data.protection@lloyds.com)) of any request by a data subject to exercise their right to access, rectification or erasure as soon as they receive receipt of the request from the data subject.

#### **14. SUSPENSION AND TERMINATION**

- 14.1. Unless terminated earlier in accordance with its provisions or otherwise by operation of law, these Terms of Use shall continue in force indefinitely until terminated by either party at any time on 30 days' written notice to the other party.

- 14.2. Lloyd's reserves the right, without notice (and without prejudice to any other rights of termination or suspension granted under these Terms of Use), to immediately:

14.2.1. suspend or terminate an Authorised Individual User's logon credentials or the Authorised Individual User's access to any part of the Service or any data within the Service; and/or

14.2.2. suspend all activity associated with any Member or Third Party Depositor to which Service User has access,

where Lloyd's has reasonable grounds to suspect that there has been a breach of these Terms of Use, or where Lloyd's considers in its sole discretion that such a step is necessary for the protection of other Market Users, or, in relation to 14.2.1, where an Authorised Individual User has not accessed the Service for eighteen (18) months or more.

- 14.3. Lloyd's may terminate these Terms of Use:

14.3.1. on immediately effective notice at any time if Lloyd's, acting reasonably, determines that Service User has materially breached these Terms of Use (and for this purpose, any breach of Clause 3.1 shall be considered a material breach);

14.3.2. on immediately effective notice if its agreement with one or more Subcontractors is terminated for any reason; or

14.3.3. on as much notice as is reasonably practicable if termination is recommended or required by a regulator.

- 14.4. If Service User, or any of its Authorised Individual Users, has access to any data relating to a Member or Third Party Depositor and ceases to be authorised to access such data by the Member or Third Party Depositor to which the data relates, Service User must notify Lloyd's immediately so that Lloyd's may terminate access by the relevant Authorised Individual Users to the data in question.

#### **15. VARIATION**

- 15.1. Lloyd's may at any time make variations to these Terms of Use by giving written notice to Service User's Authorised Individual Users. Unless specified otherwise, such variations shall be effective immediately upon notification of the variation of the Agreement to Service User and continued access or use of the Service is deemed to be acceptance of the modified Terms of Use.

- 15.2. Where possible, Lloyd's will provide Service User with advance notice of any variations that Lloyd's considers will materially impact upon the obligations of Service User or the rights or protections granted to Service User under these Terms of Use.

#### **16. ANTI-BRIBERY**

- 16.1. Each party shall:

- 16.1.1. comply with all Laws and sanctions relating to anti-bribery and anti-corruption, including the Bribery Act 2010;
  - 16.1.2. have and maintain throughout the Term policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Laws and sanctions referred to in Clause 16.1.1, and enforce them where appropriate; and
  - 16.1.3. promptly report to the other any request or demand for any undue financial or other advantage of any kind received by it in connection with the performance of these Terms of Use.
- 16.2. For the purpose of this Clause 1516, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), section 6(5) and (6) of that Act and section 8 of that Act respectively.

## **17. MODERN SLAVERY ACT**

- 17.1. In performing its obligations under the Agreement, each party shall comply with the Modern Slavery Act 2015 (the "**Modern Slavery Act**") and all codes and guidance issued in relation to the Modern Slavery Act.
- 17.2. Each party represents and warrants that neither it nor any of its officers or employees:
- 17.2.1. has been convicted of any offence involving slavery or human trafficking; or
  - 17.2.2. to the best of its knowledge, has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking.

## **18. FORCE MAJEURE**

- 18.1. Lloyd's shall not be responsible for any failure to perform any of its obligations under these Terms of Use if such performance is prevented, hindered or delayed by a Force Majeure Event, in which case its obligations will be suspended for so long as the Force Majeure Event continues.
- 18.2. In respect of any Force Majeure Event affecting Lloyd's, Lloyd's will:
- 18.2.1. notify Service User of the event and its expected duration promptly after Lloyd's becomes aware; and
  - 18.2.2. use all reasonable endeavours to mitigate, overcome or minimise the effects of the Force Majeure Event concerned.
- 18.3. In the event that the Force Majeure Event continues for more than 30 days, either party may terminate these Terms of Use immediately on written notice to the other party.

## **19. WAIVER AND CUMULATIVE REMEDIES**

- 19.1. No failure or delay by either party to exercise any right or remedy arising under, or in connection with, these Terms of Use (collectively, any "action") will act as a waiver, or otherwise prejudice or restrict the rights of that party, in relation to that action or any other contemporaneous or future action.

19.2. The rights and remedies arising under, or in connection with, these Terms of Use are cumulative and, except where otherwise expressly provided in these Terms of Use, do not exclude rights and remedies provided by law or otherwise.

## **20. SEVERANCE**

20.1. If any provision in these Terms of Use is or becomes illegal, invalid or unenforceable in any respect, that shall not affect or impair the legality, validity or enforceability of any other provision in these Terms of Use. If any illegal, invalid or unenforceable provision would be legal, valid or enforceable if some part of it were deleted, such provision shall apply with the minimum modification(s) necessary to make it legal, valid or enforceable.

## **21. SURVIVAL OF TERMS AND ACCRUED RIGHTS**

21.1. Termination or expiry of these Terms of Use shall be without prejudice to any obligations or rights of either of the parties which may have accrued before termination or expiry and shall not affect any provision of these Terms of Use which is expressly or by implication intended to survive such termination or expiry including: Clause 1, Clause 5.1.3, Clause 6, Clause 7, Clause 8, Clause 9, Clause 20, Clause 24, Clause 25, Clause 26 and Clause 27.

## **22. ASSIGNMENT AND SUBCONTRACTING**

22.1. These Terms of Use may not be assigned by Service User without Lloyd's prior written consent. Subject to the foregoing, these Terms of Use shall be binding upon and inure to the benefit of the parties, their respective successors and permitted assigns.

22.2. Lloyd's may at any time assign, or novate its rights and/or obligations under these Terms of Use, provided that Lloyd's gives prior written notice reasonably far in advance of such dealing to Service User.

22.3. Lloyd's will have the right to use Subcontractors in connection with the provision of the Service, on the basis that each Subcontractor is legally bound by obligations of confidentiality no less protective of the confidential information of Service User than those set out in these Terms of Use.

## **23. NOTICES**

23.1. Any notice given by one party to another under these Terms of Use shall be in writing and may be delivered by email or first-class post or, in the case of notices delivered by Lloyd's, by messaging functionality provided within the Service.

23.2. Any notice serviced by email to Lloyd's must be sent to [FALOnline@lloyds.com](mailto:FALOnline@lloyds.com) or such other email address specified in the Service Documentation from time to time. Lloyd's may deliver notices to Service User using the email address of any of Service User's Authorised Individual Users.

23.3. Notices delivered electronically shall be given on the day of receipt (unless received after 5.30 pm in which case they shall be given on the next Business Day). Notices sent by prepaid first-class post shall be deemed to have been given two (2) Business Days after the date of posting.

## **24. RELATIONSHIP OF THE PARTIES**

24.1. Nothing in these Terms of Use is intended to create a partnership, joint venture or legal relationship of any kind between the parties that would impose liability upon one party for the act or failure to act of the other party, or to authorise either party to act as agent for the other. Except where otherwise expressly provided in these Terms of Use, neither party shall have authority to make representations, act in the name or on behalf of, or otherwise to bind the other.

## **25. ENTIRE AGREEMENT**

25.1. These Terms of Use set out the entire agreement and understanding between the parties in respect of their subject matter and supersede any previous agreement, warranty, statement, representation, understanding, or undertaking (in each case whether written or oral) given or made before the Commencement Date by, or on behalf of, the parties and relating to its subject matter. Each party confirms that it has not relied upon, and (subject to Clause 6.1) shall have no remedy in respect of, any agreement, warranty, statement, representation, understanding or undertaking made by any party (whether or not a party to these Terms of Use) unless that agreement, warranty, statement, representation, understanding or undertaking is expressly set out in these Terms of Use.

## **26. THIRD PARTY RIGHTS**

- 26.1. A person who is not a party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this Agreement, except for Bloomberg L.P. in respect of Schedule 1.
- 26.2. The parties agree that no consent from Bloomberg L.P. is required for the parties to vary or rescind these Terms of Use (whether or not in a way that varies or extinguishes rights or benefits in favour of such third parties).

## **27. GOVERNING LAW AND JURISDICTION**

- 27.1. These Terms of Use and any dispute or non-contractual obligation arising out of or in connection with these Terms of Use shall be governed by and construed in accordance with the laws of England and Wales. Each party hereby submits to the exclusive jurisdiction of the courts of England over any dispute arising out of or in connection with these Terms of Use.

## **SCHEDULE 1 – BLOOMBERG DATA TERMS**

Depending on the type of investments held by a Member or Third Party Depositor to which Service User has access, Service User may have access through the Service to data that is provided by or calculated utilising data provided by Lloyd's Third Party Provider, Bloomberg.

This Schedule, together with the other provisions of these Terms of Use, sets out terms on which the Service User may access and make use of data provided by Lloyd's Third Party Provider, Bloomberg.

### **1. Definitions**

The definitions set out in this paragraph apply in this Schedule 1. Capitalised terms used in this Schedule 1 which are not defined in this paragraph have the meanings given to them in Clause 1 of the Terms of Use.

**"Bloomberg"** means Bloomberg L.P, and/or Bloomberg L.P's affiliates.

**"Permitted Activities"** means all or any of the following activities:

- a) Record-keeping and registration;
- b) Transaction processing and settlement;
- c) Position reporting;
- d) Net Asset Value (NAV) calculations and NAV reporting;
- e) Correspondent banking;
- f) Regulatory risk reporting in connection with Solvency II obligations;
- g) Preparation and inclusion in published accounts;
- h) Oversight and review of Lloyd's Society and Market investments;
- i) Internal governance and risk management; and
- j) Internal control.

**"Statements"** means any and all information provided to Service User which contains data that is supplied by Bloomberg or calculated utilising data supplied by Bloomberg, including but not limited to statements, Funds at Lloyd's asset valuations or other data or documentation which Lloyd's provides to you in any format whatsoever (including by email, post, mobile phone or via online web applications);

**"Third Party Data Suppliers"** means Bloomberg L.P, its affiliates and their respective suppliers;

### **1. Permitted use of the Statements**

1.1. Subject to paragraph 1.2 below, you may only use the Statements internally in connection with the Permitted Activities and may not distribute or disclose the Statements to any third parties.

1.2. You may, subject to paragraph 2 below, share the Statements with:

- 1.2.1. a third party who has entered into Terms of Use in this form with Lloyd's;
- 1.2.2. any regulatory authority with jurisdiction over you, to the extent that such disclosure is required by such regulatory authority in connection with its official investigatory or enforcement activities;
- 1.2.3. your affiliates, on a need to know basis for purposes connected with the Permitted Activities;  
or
- 1.2.4. any subadvisor engaged by you for fund management purposes, provided that:
  - (a) you ensure that any such subadvisor uses the Statements solely to verify NAV calculations and not for any other purpose; and

- (b) you enter into a written agreement with any such subadvisor which requires them to: (i) comply with paragraphs 1.2.4 (a) and paragraph of this Schedule; and (ii) use the Statements only internally and not distribute them or make them available to any third parties.

## **2. Compliance with Law**

- 2.1. You must comply with all applicable Law in connection with your access to and use of the Statements.

## **3. Audit and monitoring**

- 3.1. You will, upon request:

- 3.1.1. provide Lloyd's and/or any Third Party Data Supplier with any information reasonably required to demonstrate your compliance with the obligations set out herein; and
- 3.1.2. permit your use of the Statements to be audited by or on behalf of Lloyd's and/or Bloomberg L.P; and/or Bloomberg L.P's affiliates.

- 3.2. You will inform Lloyd's immediately if any Third Party Data Supplier requests an audit or any information from you in connection with your use of the Statements, or if you become aware of any breach of this Schedule at any time.

- 3.3. Should Bloomberg L.P request an audit pursuant to paragraph 3.1.2 above, such an audit may, upon your request, be performed by a third-party auditor mutually agreed upon between you and Bloomberg L.P (provided that you will be responsible for the costs of any third party audit conducted under this Clause).

## **4. Disclaimer, Indemnity and Limitation of Liability**

- 4.1. To the maximum extent permitted by law, the Third Party Data Suppliers:

- 4.1.1. expressly exclude all warranties which would otherwise be implied by law (including, without limitation, warranties as to satisfactory quality, fitness for purpose or skill and care); and
- 4.1.2. shall have no liability or responsibility whatsoever in connection with your receipt or use of the Statements or any of the data contained in the Statements, including any loss or damage resulting from any party acting or refraining from acting in reliance on the information provided.

## **5. Termination Obligations**

- 5.1. Lloyd's reserves the right to terminate its provision of the Statements to you at any time. Lloyd's will provide you with advance written notice of such termination where it can reasonably do so.
- 5.2. You will, upon the termination of your relationship with Lloyd's to receive the Statements for any reason, cease all use of and delete and purge all Statements that you have received from Lloyd's, provided that you may store or archive Statements as necessary to comply with internal audit and regulatory requirements.

## SCHEDULE 2: ACCEPTABLE USE POLICY

1. Service User shall not (and shall procure that its Authorised Individual Users do not) use the Service nor store, distribute or transmit any material through, via or from the Service in a way that could reasonably be determined to:
  - a) violate any applicable laws;
  - b) commit, aid or encourage the commission of a tortious, criminal or otherwise wrongful act, including, without limitation, the communication of libellous, defamatory, scandalous, threatening, harassing, or private information (without consent) or communicating content that is likely to cause emotional distress;
  - c) communicate content that is obscene, pornographic, lewd, lascivious or violent;
  - d) infringe the intellectual property rights, breach the confidence, or violate any other legal rights of any person, business, company or organisation;
  - e) obtain or attempt to obtain unauthorised access, such as attempting to circumvent or circumventing any authentication or other security feature of the Service. This includes accessing data not intended for you, logging into a server or account you are not authorised to access, or probing the security of the Service;
  - f) interfere or attempt to interfere with service of the Service by use of any program, script, command or otherwise. This includes "denial of service" attacks, "flooding" of networks, deliberate attempts to overload the Service or to burden excessively;
  - g) obtain or attempt to obtain unauthorised access by any means to Lloyd's [or InvestCloud's] systems, software or networks;
  - h) introduce viruses, worms, harmful code and/or Trojan horses via any means;
  - i) deface, alter or interfere with the "look and feel" of the Service or the underlying software code;
  - j) intentionally (using reasonable care) do or omit to do anything that might adversely affect the operation of the Service;
  - k) take any action that imposes an unreasonable or disproportionately large load on the Service or related infrastructure.
2. Service User shall not copy, decompile, adapt, disassemble, reverse engineer or make error corrections to the Service or any part thereof except as expressly permitted by applicable law for the purposes of integrating the operation of the Service with the operation of other software or systems used by Service User.
3. Service User shall not copy, use, alter, obscure, remove, interfere with or add to any trademarks, trade names, markings or notices used on or contained in the Service or Service Documentation.



### SCHEDULE 3: THIRD PARTY RIGHTS IN INVESTCLOUD CONTRACT

#### 1. Flow Through Rights

1.1 InvestCloud warrants and undertakes to Service User in the InvestCloud Contract that it shall comply with the following provisions of the InvestCloud Contract, and Service User shall be entitled to enforce any of the following indemnities, and any breach of the following Clauses of the InvestCloud Contract directly against InvestCloud as if the Service User had been named, with Lloyd's, in the applicable Clause (being the "**Flow Through Rights**"):

- (a) breaches by InvestCloud of, or any indemnities given by the InvestCloud in, Clause 11 and Schedule 10 (*Data Protection*) (in respect of personal data provided by or which relates to that Market User (or its Authorised Individual Users) only);
- (b) breaches by InvestCloud of, or any indemnities given by the InvestCloud in, Clause 20 (*Confidentiality*) (in respect of that Market User's Confidential Information only); and/or
- (c) breaches by InvestCloud of, or any indemnities given by the InvestCloud in, Clause 23 (*Intellectual Property Rights*);

2. The Flow Through Rights in the InvestCloud Contract in respect of data protection include personal data processing terms which comply with the requirements of the EU General Data Protection Regulation 2016/679 (the "GDPR").

3. The Flow Through Rights in the InvestCloud Contract in respect of confidentiality are no less onerous than those provisions set out (as between Lloyd's and Service User) in these Terms of Use.

4. The Flow Through Rights in respect of intellectual property rights include an indemnity in respect of third-party claims, as summarised below:

In the InvestCloud Contract, InvestCloud has undertaken to defend Service User from and against any claim that use or possession of the Service, Service Documentation, any deliverable or material provided by InvestCloud, in accordance with the terms of the InvestCloud Contract infringes the rights including the intellectual property rights of a third party and shall fully indemnify Service User against any losses incurred by or awarded against Service User in connection with any such claims, except to the extent that any such claim is caused by an unauthorised modification or use of the Service, Service Documentation, any deliverable or material or where InvestCloud has made available a non-infringing alternative which has not been implemented.

5. If there is a breach of these Terms of Use and Service User has the rights to enforce the event giving rise to such breach directly against InvestCloud pursuant to the Flow Through Rights, Lloyd's shall, on request and following notification by Service User pursuant to Clause 7.5 of these Terms of Use, provide Service User with a copy of all relevant extracts of the InvestCloud Contract relating to the relevant Flow Through Rights.