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CLIENT SERVICE  
AGREEMENT

# CLIENT SERVICE AGREEMENT

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THIS AGREEMENT is made the ..... day of ..... 2017

## BETWEEN:

- (1) Ober Private Clients ("Ober") and  
(2) ..... of

## WHEREAS:

- (1) Ober is in the business of carrying on the regulated activities of making arrangements with a view to transactions in investments; and arranging (bringing about) deals in investments, where the "rights to or interests in investments (security)" is limited to the investment in shares and debentures. Ober hereby agrees to provide those regulated activities, as specified herein ("the Services") in accordance with this Agreement.
- (2) You wish to procure Ober's services in accordance with, and subject to, this Agreement.

## IT IS AGREED as follows:

### 1. Application

- 1.1 This Agreement shall apply to the provision of the regulated activities of making arrangements with a view to transactions in investments; and arranging (bringing about) deals in investments, where the "rights to or interests in investments (security)" is limited to the investment in shares and debentures (together the "Services") by Ober Private Clients ("Ober") to you (the "Client").
- 1.2 In the event of conflict between these Terms and Conditions and any other terms and conditions, the former shall prevail unless expressly otherwise agreed by Ober in writing.

### 2. Definitions and Interpretation

- 2.1 In these Terms and Conditions, unless the context otherwise requires, the following expressions have the following meanings:

"Agreement"	an agreement between you and Ober entered into by the same which shall incorporate, and be subject to, these Terms and Conditions;
"Applicable Laws"	all relevant UK laws, regulations and rules, including those of any government body or of the FCA;
"Application Form"	an investment form, which is completed by the client to invest into the shares of a company as set out in the Information Memorandum;
"Arranging (bringing about) deals in investments"	the regulated activity, as specified in article 25(1) of the Regulated Activities Order, which is in summary: making arrangements for another person to buy, sell, subscribe for or underwrite a specified investment;
"Associate"	members and employees of, and consultants to, Ober
"Business Day"	any day (other than a Saturday, Sunday or a public holiday in England) on which banks generally are open for the transaction of normal banking business (other than solely for trading and settlement in Euros);
"Commencement Date"	the date of this Agreement;
"EIS"	the Enterprise Investment Scheme, in accordance with the Income Tax Act 2007;
"EIS Qualifying Investment"	an investment in a company which is a qualifying company under the EIS;

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“FCA”	the Financial Conduct Authority;
“FCA Rules”	the rules contained in the FCA’s Handbook;
“Fees”	the fees payable by you as the Client under Clause 7 in accordance with the Terms of Payment;
“Investments”	are investments to rights to or interests in shares or debentures of companies that Ober arranges (brings about) deals in, which in the main will be under the Enterprise Investment Scheme;
“non-Readily Realisable Investments”	are investments which are not Readily Realisable Investments and in which the market is limited or could become so; they can be difficult to assess what would be a proper market price for them given there is no secondary market;
“Ober Private Clients” or “Ober”	the trading name of Ober Private Clients Limited, a company registered in England and Wales under the number 08157042 whose registered office is at 6th Floor, Blackfriars House, Parsonage, Manchester M3 2JA, and is authorised and regulated by the Financial Conduct Authority. FCA Reference number 706215;
“Ober Private Clients Limited”	a company registered in the British Virgin Islands under the number 1729131 whose registered office is Trident Chambers, Wickhams Cay I, Road Town, Tortola, British Virgin Islands;
“Regulated Activities”	the activities specified in Part II of the Regulated Activities Order;
“Regulated Activities Order”	The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 (SI2001/544);
“Readily Realisable Investments”	shall have the meaning set out in the FCA Rules;
“the Services”	the services provided under Clause 3 of this Agreement;
“Terms of Payment”	the terms of payment of Fees as set out in Clause 8 of this Agreement.

- 2.2 Unless the context otherwise requires, each reference in these Terms and Conditions to:
- 2.2.1 “writing”, and any cognate expression, includes a reference to any communication effected by electronic or facsimile transmission or similar means;
  - 2.2.2 a statute or a provision of a statute is a reference to that statute or provision as amended or re-enacted at the relevant time;
  - 2.2.3 “these Terms and Conditions” is a reference to these Terms and Conditions and any Schedules as amended or supplemented at the relevant time;
  - 2.2.4 a Schedule is a schedule to these Terms and Conditions; and
  - 2.2.5 a Clause or paragraph is a reference to a Clause of these Terms and Conditions (other than the Schedules) or a paragraph of the relevant Schedule.
  - 2.2.6 a “Party” or the “Parties” refer to the parties to these Terms and Conditions.
- 2.3 The headings used in these Terms and Conditions are for convenience only and shall have no effect upon the interpretation of these Terms and Conditions.
- 2.4 Words imparting the singular number shall include the plural and vice versa.
- 2.5 References to any gender shall include the other gender.

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## 3. The Services

- 3.1 With effect from the Commencement Date, Ober shall, in consideration of the Fees being paid in accordance with the Terms of Payment provide the Services to the Client.
- 3.2 Ober will use reasonable care and skill to perform the Services.

## 4. Agreement

- 4.1 This Agreement constitutes the contract between the Client ("you"), and Ober Private Clients ("Ober", "we" or "us") appointing us to carry on the regulated activities of making arrangements with a view to transactions in investments; and arranging (bringing about) deals in investments, where the "rights to or interests in investments (security)" is limited to the investment in shares or debentures through the Service. By signing the Agreement, you confirm that this Agreement including its Definitions constitutes the entire agreement in respect of your Investment through the Service

## 5. Regulatory Status

- 5.1 Ober is authorised and regulated by the Financial Conduct Authority ("FCA"), FCA Reference number 706215. Details of Ober's authorisation can be found on the FCA's website at [www.fca.gov.uk](http://www.fca.gov.uk). The address of the FCA is 25 The North Colonnade, Canary Wharf, London, E14 5HS.
- 5.2 The registered address for Ober Private Clients is 6th Floor, Blackfriars House, Parsonage, Manchester M3 2JA.

## 6. Customer Status

- 6.1 We have categorised you as a retail client for the purposes of the FCA Rules; irrespective of whether you could be categorised as a professional client for the purposes of the FCA Rules. This categorisation has taken place based on our internal client categorisation process.
- 6.2 If at any point after categorisation you wish to be re-categorised, you may apply to be re-categorised in writing or by telephone. Please note that, whilst all requests for re-categorisation will be considered, Ober is not obliged to carry out such a request.
- 6.3 You warrant that all information you have provided to us (including the information provided in your Investment Application form) is true, accurate and complete in all material respects and you have not omitted any information which may be material to the Services to be provided to you. We will have no responsibility or liability to you if such information is untrue, inaccurate, or incomplete in any material way. You should notify us in writing as soon as reasonably practicable if any information you have provided should be updated or is no longer correct.
- 6.4 You confirm that you have not relied on any statement, representation or warranty made or given by Ober Private Clients, other than those expressly set out in this Agreement and the Information Memorandum.
- 6.5 If appropriate, you have taken advice from a suitably qualified FCA regulated adviser.
- 6.6 If appropriate, on submission of your Investment Application form through your suitably qualified FCA-regulated adviser; you warrant and represent that such person is acting as your agent and therefore we may share with your agent details of your investment arranged by us unless you advise us to the contrary in writing. You will notify us as soon as reasonably practicable if the person previously notified to us ceases to be your agent.

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## 7. Fees

- 7.1 You agree to pay the Fees in accordance with the Terms of Payment.
- 7.2 Ober will charge an initial Procurement fee of 5% of the Investment Amount each time you invest. The initial Procurement fee will be payable in addition to your Investment, rather than being deducted from the Investment Amount.
- 7.3 Ober will also charge you a performance related fee calculated as follows:
  - 7.3.1 Where at the time of disposing of the whole, or any part, of your interest in any particular Investment the profit that you make is between 100% to 199% or more of your original gross investment in that company (pro-rated where you dispose of only part of your interest), the fee from Ober will be charged at 25% of your total profit.
  - 7.3.2 Where at the time of disposing of the whole, or any part, of your interest in any particular Investment the profit that you make is 200% or more of your original gross investment in that company (pro-rated where you dispose of only part of your interest), the fee from Ober will be charged at 30% of your total profit
- 7.4 No annual management charges will be levied.
- 7.5 All sums payable by either Party pursuant to the Agreement are exclusive of any Value Added Tax, for which that Party shall be additionally liable, where applicable.

## 8. Payment

- 8.1 All payments required to be made pursuant to the Agreement by either Party shall be made within 7 days of the date of the relevant invoice in cleared funds to such bank as the receiving Party may from time to time nominate, without any set-off, withholding or deduction except such amount (if any) of tax as that Party is required to deduct or withhold by law.
- 8.2 The time of payment shall be of the essence. If you fail to make any payment on the due date then Ober shall, without prejudice to any right which the Ober may have pursuant to any statutory provision in force from time to time, have the right to charge you interest on a daily basis at an annual rate equal to the aggregate of 6% and the base rate of the Bank of England from time to time on any sum due and not paid on the due date until such sum is received in full. Such interest shall be calculated cumulatively on a daily basis and shall run from day to day and accrue after as well as before any judgement.

## 9. Best Execution

- 9.1 In accordance with FCA Rules, we have implemented an order execution policy and we will take reasonable steps to obtain the best possible result for clients.
- 9.2 Investments arranged through the Service will generally be in the shares of an unquoted company. Such investments will include non-Readily Realisable Investments for which there is a restricted market and it may be difficult to deal in the shares or obtain independent information about their value. It may not be possible to sell the shares at a reasonable price or at any price at all.
- 9.3 An investment through the Service should be viewed as a medium to long term commitment of at least three years.
- 9.4 In arranging (bringing about) deals for investments in shares, Ober will act in your best interest and in accordance with our execution policy detailed as follows:
  - 9.4.1 Owing to the nature of the investments arranged through the Service, all transactions will be in unquoted shares and therefore by definition will be transacted off-market.

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## 10. Conflicts of Interest

- 10.1 The financial, investment or other professional activities undertaken by Ober; its employees, agents and affiliates, Company Directors and any person by whom they are employed may cause conflicts of interest with the businesses in which participations are arranged.
- 10.2 We take the identification of management of conflicts of interest seriously. We have implemented a conflicts of interest policy that identifies those circumstances that constitute, or may give rise to, conflicts of interest that pose a material risk of damage to our clients. This policy also addresses the effective organisational and administrative arrangements that we maintain and operate to manage those conflicts. A copy of our conflicts policy is available on request from the Ober Compliance Officer.
- 10.3 Conflicts of Interest are outlined more fully in the Information Memorandum.

## 11. Data Protection and Confidentiality

- 11.1 We are registered under the Data Protection Act 1998 and, as such may keep records in which your name and certain personal information provided by you to us will be stored. Certain information may be shared with associated entities, generally for administrative reasons.
- 11.2 You have the right to receive a copy of the information that Ober holds about you to the extent that it constitutes personal information. For more details, please write to the Ober Compliance Officer.
- 11.3 We will keep confidential any data or other information which we hold on you. We may, however, share some or all of this with the FCA if we are required to do so in accordance with the FCA Rules, and with other governmental, judicial, law enforcement, or regulatory bodies if similarly required to do so.

## 12. Complaints Procedure

- 12.1 As an FCA regulated firm, we have a complaints procedure in place which requires us to deal fairly with any complaint we receive. If you have a complaint, you should write to the Compliance Officer, who will acknowledge receipt of your letter, investigate the circumstances and report back to you.

## 13. Variation and Amendments

- 13.1 If you wish to vary any details of the Agreement you must notify Ober in writing as soon as possible. Ober shall endeavour to make any reasonable changes and any additional costs thereby incurred shall be invoiced to you.
- 13.2 If, due to circumstances beyond Ober's control, it has to make any change in the arrangements relating to the provision of the Services it shall notify you immediately. Ober shall endeavour to keep such changes to a minimum and shall seek to offer you arrangements as close to the original as is reasonably possible in the circumstances.

## 14. Termination

- 14.1 Ober may terminate the Agreement immediately if:
  - 14.1.1 You are in breach of any of your obligations hereunder;
  - 14.1.2 You have entered into liquidation (other than for the purposes of a bona-fide amalgamation or reconstruction) whether compulsory or voluntarily or compounds with his creditors generally or has an administrator, administrative receiver or receiver appointed over all or a substantial part of your undertakings or assets;
  - 14.1.3 You have become bankrupt or shall be deemed unable to pay his debts by virtue of Section 123 of the Insolvency Act 1986;
  - 14.1.4 Any circumstances whatsoever beyond the reasonable control of Ober arise that necessitate for whatever reason the termination of the provision of Services.

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14.2 In the event of termination under sub-Clause 14.1 Ober shall retain any sums already paid to it by you without prejudice to any other rights that Ober may have whether at law or otherwise.

## 15. Delegation and use of Agents

15.1 Ober may delegate any of our functions under the Agreement to any third party of our choosing which is competent (and if relevant, appropriately regulated) to perform such functions.

15.2 We will act in good faith and with due diligence in the selection, use and monitoring of third party delegates.

## 16. Sub-Contracting

16.1 Ober may sub-contract the performance of any of its obligations under the Agreement without the prior written consent of you. Where Ober sub-contracts the performance of any of its obligations under the Agreement to any person with your prior consent, the sub-contracting Party shall be responsible for every act or omission of the sub-contractor as if it were an act or omission of the sub-contracting Party itself.

## 17. Liability

17.1 Ober shall not be liable to you or be deemed to be in breach of these terms and conditions by reason of any delay in performing, or any failure to perform, any of Ober's obligations if the delay or failure was due to any cause beyond Ober's reasonable control.

17.2 Ober shall not be liable to you for any act by the companies that are the subject of your Investment or for the performance of your Investments.

## 18. Force Majeure

18.1 Neither you nor Ober shall be liable for any failure or delay in performing their obligations under the Agreement where such failure or delay results from any cause that is beyond the reasonable control of that Party. Such causes include, but are not limited to: power failure, Internet Service Provider failure, industrial action, civil unrest, fire, flood, storms, earthquakes, acts of terrorism, acts of war, governmental action or any other event that is beyond the control of the Party in question.

## 19. Waiver

19.1 No waiver by Ober of any breach of the Agreement with you shall be considered as a waiver of any subsequent breach of the same or any other provision. A waiver of any term, provision or condition of the Agreement shall be effective only if given in writing and signed by the waiving Party and then only in the instance and for the purpose for which the waiver is given.

19.2 No failure or delay on the part of any Party in exercising any right, power or privilege under the Agreement shall operate as a waiver of, nor shall any single or partial exercise of any such right, power or privilege preclude, any other or further exercise of any other right, power or privilege.

## 20. Severance

20.1 The Parties agree that, in the event that one or more of the provisions of these Terms and Conditions are found to be unlawful, invalid or otherwise unenforceable, that / those provisions shall be deemed severed from the remainder of these Terms and Conditions (and the Agreement, as appropriate). The remainder of these Terms and Conditions shall be valid and enforceable.

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## 21. Copyright

- 21.1 Ober reserves all copyright and any other rights (if any) which may subsist in the products of, or in connection with, the provision of the Services or facilities. Ober reserves the right to take such actions as may be appropriate to restrain or prevent infringement of such copyright.

## 22. Notices

- 22.1 All notices under the Agreement shall be in writing and be deemed duly given if signed by, or on behalf of, a duly authorised officer of the Party giving the notice.
- 22.2 Notices shall be deemed to have been duly given:
- 22.2.1 when delivered, if delivered by courier or other messenger (including registered mail) during normal business hours of the recipient; or
  - 22.2.2 when sent, if transmitted by fax or e-mail and a successful transmission report or return receipt is generated; or
  - 22.2.3 on the fifth business day following mailing, if mailed by national ordinary mail, postage prepaid; or
  - 22.2.4 on the tenth business day following mailing, if mailed by airmail, postage prepaid.
  - 22.2.5 in each case addressed to the most recent address, e-mail address, or facsimile number notified to the other Party.
- 22.3 Service of any document for the purposes of any legal proceeding concerning or arising out of the Agreement shall be effected by either Party by causing such document to be delivered to the other Party at its registered or principal office, or to such other address as may be notified to one Party by the other Party in writing from time to time.

## 23. Law and Jurisdiction

- 23.1 These Terms and Conditions and the Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall be governed by, and construed in accordance with, the laws of England and Wales.
- 23.2 Any dispute, controversy, proceedings or claim between the Parties relating to these Terms and Conditions or the Agreement (including any non-contractual matters and obligations arising therefrom or associated therewith) shall fall within the jurisdiction of the courts of England and Wales.

**IN WITNESS WHERE OF** this Agreement has been duly executed the day and year first before written.

SIGNED by:



.....  
for and on behalf of Ober Private Clients Limited.

SIGNED by:

.....





T: 0333 939 8533 E: [INFO@OBERPRIVATECLIENTS.COM](mailto:INFO@OBERPRIVATECLIENTS.COM)

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Ober Private Clients is the trading name of Ober Private Clients Limited.

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