

KESTREL CAPITAL (EAST AFRICA) LIMITED

TERMS AND CONDITIONS OF BUSINESS

Revised 2015

Part A: Preliminary

1 Purpose and basis of these terms

- 1.1 These terms and conditions of business (“**Terms**”) set out the terms and conditions on which Kestrel Capital (East Africa) Limited (“**Kestrel**”) and its affiliates shall conduct business with the Client or provide the Client with services from time to time. These Terms together with the Client Account Opening Form and other related agreements and notices from Kestrel together constitute the terms of your legally binding agreement with Kestrel (this “**Agreement**”).
- 1.2 Kestrel Capital is licensed and regulated by the Capital Markets Authority under the Act and is a member of the Nairobi Securities Exchange.
- 1.3 By instructing us to provide you with any Services, you accept that such Services are provided on these Terms.
- 1.4 This Agreement is intended to create legal relations between Kestrel and the Client and shall take effect on the date of signature of the Client Account Opening Form or on the date when we first provide you with Services, whichever is earlier.

2 Definitions and construction

- 2.1 The following words and phrases shall have the following meanings:

Act	means the Capital Markets Act (Chapter 485A);
Client Account Opening Form	means the application form prepared by or on behalf of the Client and submitted to Kestrel in order to open a Trading Account;
Authorized Person	means a person authorized to act on behalf of the Client in accordance with this Agreement and includes any person you inform us is or hold out to be authorized to give instructions for you;
Business Day	means any day which is not a Saturday or Sunday or public holiday in the Republic of Kenya;
Client	means the person, corporation, partnership, trustee, custodian or other entity identified as such in the Client Account Opening Form and in whose name a Trading Account is opened and, where applicable, their duly authorized agents, representatives, legal personal representatives or successors;
Market Regulations	means all Kenyan or foreign legislation or rules/regulations/guidelines applicable to the provision of the Services including the provisions of the Act and the rules and regulations made thereunder, all rules, regulations or by-laws of any relevant exchange and or clearing house (including banks), any order, award or other decision or finding of a court or quasi-judicial authority of competent jurisdiction, all statutory or other requirements relating to money laundering and applicable accepted market practice and custom;
Portfolio	means the Securities and other assets (including cash) dealt or held by us under the terms of this Agreement;
Government	means any government, government related agency or government controlled persons including regulators, central banks and public authorities;
Payment Order	means a written instruction to make payments (for example, by direct debit, cheque or direct transfer) in connection with the Trading Account;
Securities	includes shares, stocks, bonds, debentures, notes, certificates of indebtedness, warrants or other securities, options, futures or financial instruments;
Trading Account	means each account at Kestrel established in the name of the Client or together with other Client(s).

- 2.2 A reference to a person shall include a natural person, corporate or unincorporated body (whether or not having separate legal personality) government, state or agency of a state and that person’s successors and permitted assigns.
- 2.3 The singular shall include the plural, masculine shall include the female and vice versa.
- 2.4 Headings herein shall not affect the construction of this Agreement.
- 2.5 Any obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.

- 2.6 References to writing shall include any mode of representing words in a legible and non-transitory form.
- 2.7 References to times of the day are unless the context requires otherwise, to East African Standard time.
- 2.8 All references to a statutory provision shall be construed as including references to any statutory modification, consolidation or re-enactment (whether before or after the date of this Agreement) for the time being in force; all statutory instruments or orders made pursuant to a statutory provision; and any statutory provisions of which a statutory provision is a consolidation, re-enactment or modification.
- 2.9 The rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of the contract, shall not apply to the extent that this Agreement has been negotiated between the Parties.
- 2.10 Unless the context otherwise requires, references herein to **'we'** **'us'** or **'our'** shall refer to Kestrel and references to **'you'** or **'your'** shall refer to the Client.

Part B: The Services

3 Description of Services

- 3.1 We shall provide you with any of the following services provided that such service may be legally provided by us:
- 3.1.1 execution-only broking and trading services in Securities (both publicly listed and privately placed) on the Nairobi Securities Exchange or any other exchange or market where we may carry on business; or
- 3.1.2 such other services as may be agreed in writing between Kestrel and the Client (the **'Services'**).
- 3.2 We may provide the Services in relation to the following in Kenya or overseas:
- 3.2.1 shares comprising the share capital of any company;
- 3.2.2 any instrument creating or acknowledging indebtedness which is issued or proposed to be issued;
- 3.2.3 loan stock, bonds and other instruments creating or acknowledging indebtedness by or on behalf of any Government;
- 3.2.4 rights, options, or interests, whether described as units or otherwise, in, or in respect of shares, debt Securities or Government Securities;
- 3.2.5 any right, whether conferred by warrant or otherwise, to subscribe for shares or debt Securities;
- 3.2.6 any option to acquire or dispose of any other Security;
- 3.2.7 futures in respect of Securities or other assets or property;
- 3.2.8 units in a collective investment scheme, including shares in an investment company, or other similar entities whether established in Kenya or not;
- 3.2.9 asset backed securities; and
- 3.2.10 purchase and sale of Securities generally.
- 3.3 The Services shall be subject to any limits or restrictions which may be specified in any Market Regulations.
- 3.4 We shall provide the Services to you and effect each transaction relating to you as your agent.
- 3.5 We shall treat you as our client and we have no obligation and accept no liability to any other person for whom you may be acting as an agent, intermediary or fiduciary (whether or not the existence or identity of such person has been disclosed to us) and your obligations to us shall not be diminished in any way by reason of your so acting. You shall only deal with bona fide employees of Kestrel identified to you as such.
- 3.6 You agree and accept that we may at our sole discretion:
- 3.6.1 require you to provide us with such minimum deposit as we may prescribe from time to time before we open a Trading Account for you;
- 3.6.2 require you to maintain such minimum Portfolio value as we may prescribe from time to time; or
- 3.6.3 impose a minimum trade value for transactions.
- 3.7 You agree and undertake to promptly provide us with all information relating to your legal and tax status relevant to this Agreement together with such other information or documentation that we may deem necessary, at our sole discretion, for the provision of the Services and to notify us of any change to any information provided to us in connection with this Agreement within thirty (30) days from the date of such change. You further agree and undertake to indemnify and hold us (including our affiliates, directors, officers, servants or employees) harmless from and against any and all claims or losses arising out of or relating to your failure to provide true and accurate information or to update such information as required.

- 3.8 You acknowledge and agree that we may disclose or transfer any information that you provide to us that we deem necessary, at our sole discretion without giving reasons therefore. For the avoidance of doubt we may disclose or transfer information:
- 3.8.1 where such disclosure is required for the provision of the Services;
 - 3.8.2 to any of our affiliates, counterparty brokers, agents, servants or employees;
 - 3.8.3 if we have a right or duty to disclose or are permitted or compelled to so disclose such information under any Market Regulations or otherwise under any applicable law.
- 3.9 You consent to the transmission, transfer or processing of any information you provide to us to, or through, any country in the world, as we deem necessary or appropriate.

4 Instructions

General

- 4.1 We shall be entitled to act upon any written (including electronic media) or, at our sole discretion, oral instructions reasonably believed to be from you or from any other Authorized Person. Where we accept oral instructions we may, at our sole discretion, require you to furnish us with written confirmations of such oral instructions. Instructions must be received by us before we may act on them.
- 4.2 Once given, instructions may only be withdrawn or amended with our consent. A cancellation or amended instruction is merely a request and action on such request is not guaranteed. If we cancel your instructions, we may charge a fee.
- 4.3 Instructions may be acknowledged either expressly or by our acting upon them. Unless we agree otherwise, instructions are effective when we receive them. We will not generally acknowledge receipt of instructions other than by acting on them. You agree to regularly monitor your Trading Account and you agree to notify us immediately you notice any inaccuracy in effecting your instructions.
- 4.4 You shall promptly and within any time limit imposed by us give any instructions we may reasonably request from you in respect of any Services provided hereunder. If you do not do so, we may in our sole discretion take any steps at your cost and liability we consider appropriate for our or for your protection. You shall be solely liable for the consequences of a failure on your part to provide instructions to us by any required time once notification of an event requiring your instructions has been sent to you.
- 4.5 We may, at our absolute discretion, decline to accept or act in accordance with any instructions, accept any payment into your Trading Account or take any action or inaction without being under any obligation to give reasons therefor. If we decline an instruction we may take reasonable steps to notify you promptly but we shall not be liable for any failure to do so. Without prejudice to the foregoing, we may decline to accept or act on instructions where we reasonably believe that (without limitation):
- 4.5.1 the instruction is not clear, does not satisfy any requirements that apply to the Services or was not given by you or an Authorized Person; or
 - 4.5.2 by carrying out the instruction we, may contravene any Market Regulation, code or other duty which applies to us or may become exposed to action or censure from any Government; or
 - 4.5.3 you have not provided us with sufficient funds to effect the instructions.
- 4.6 You authorize us to, at our sole discretion, take any action or inaction which we consider necessary or appropriate in the provision of the Services including but not limited to delegating our authority as your agent to another or taking any action or inaction to comply with any Market Regulations. You agree to be bound by, ratify and confirm everything done in the exercise of such discretion.

Authorized Persons

- 4.7 If you wish to authorize any 3rd party person (provided that such person has capacity to enter into contracts) to give instructions on your behalf please notify us in writing by completing and delivering to us our standard 3rd party agent authorization form. All appointments of Authorized Persons shall be at our discretion and we may cease to recognize the authority of any Authorized Person at our absolute discretion.
- 4.8 All corporate clients must appoint an employee or director as an Authorized Person, if a 3rd party agent is not appointed, and proof of such appointment shall be provided to us on demand. We may accept oral appointments for employee and directors at our discretion.
- 4.9 Unless and until we are informed in writing that the authority of any Authorized Person has been withdrawn, any action taken by us in conforming to instructions given under such authority shall be binding on you.
- 4.10 We may act on instructions given by Authorized Persons and may disclose Trading Account balances and any other details about your Trading Account(s) to Authorized Persons.
- 4.11 We shall not be liable to you in respect of any loss whatsoever and howsoever arising from effecting instructions given by or otherwise dealing with an Authorized Person and you shall solely be responsible for:
- 4.11.1 all instructions given by an Authorized Person; and
 - 4.11.2 the manner in which an Authorized Person uses your Trading Account.

- 4.12 If you have selected Authorized Persons to act for you, then subject to any specific limitations that we agree when you appoint that person, the Authorized Persons may give any instructions for you and may otherwise enter into transactions with us for you, including:
- 4.12.1 entering into agreements with us for the provision of further products or services which they consider to be in your interests;
 - 4.12.2 giving us instructions and setting up security procedures for giving instructions in connection with services and products; and
 - 4.12.3 changing the Authorized Persons at any time.
- 4.13 These Terms shall be applicable to and binding upon any Authorized Person appointed by you.

5 Local and Foreign Dealings

- 5.1 We shall be entitled to carry out all transactions in accordance with Market Regulations of the relevant market, exchange and/or clearing house whether applicable to you or us. We may take all such steps as may be required or permitted by such Market Regulations. We shall be entitled to take or not take any action we consider fit in order to ensure compliance with the Market Regulations and all such actions so taken shall be binding upon you.
- 5.2 We may execute your dealing instructions upon or outside any market or exchange and through any clearing house selected by us. You irrevocably agree that, in order to give effect to your dealing instructions, we may instruct an intermediate broker (local or foreign, as the case may require) selected by us at our discretion which may or may not be a third party affiliate of Kestrel. You acknowledge that standards in international markets may not be equivalent to those in Kenya. We will use reasonable endeavors to select third party brokers that will provide execution services to an appropriate standard, taking into account the standard generally available in the market in which the brokers operate.
- 5.3 We will use reasonable endeavours to conclude any third party contracts on terms which, in our reasonable opinion, are standard in the relevant market.
- 5.4 Where you instruct us in relation to foreign markets, you agree to pay on demand any fees, charges or other payments levied by third parties in connection with such instructions.
- 5.5 Assets and profits arising on settlement or liquidation shall be credited to your Trading Account, and losses howsoever arising shall be debited to your Trading Account. Any debit balance arising as a result of settlement or liquidation shall be payable by you forthwith whether or not demanded by us.
- 5.6 We shall not knowingly execute or agree to execute a transaction which would result in your having a short position. A short position arises when a person contracts to sell investments which he/she does not currently own, intending to buy them in the market at a lower price, before the investments are due to be delivered to the purchaser.
- 5.7 Subject to clauses 5.8 to 5.10 (inclusive) below, when we execute a transaction we will, subject to any specific instructions that you give us and which we accept, take reasonable steps to do so on the best terms available to you in the relevant market having regard to the size and nature of the transaction concerned as well as the circumstances existing at the time of executing such transaction. ..
- 5.8 We may at our discretion aggregate your orders with our own orders or those of other clients. We shall allocate the proceeds of such orders among the participating accounts in a manner which we believe to be fair and equitable. If the combined order is not executed at the same price, we may average the prices paid or received and debit or credit your account with the average net price. Details of average price may be furnished on request. We believe that aggregating your orders in this way shall generally be to your advantage, for instance to obtain better execution or reduced foreign exchange or other dealing costs by being part of a larger transaction. However, on occasion, aggregation and allocation may result in you obtaining a less favorable price.
- 5.9 Where we are unable or consider it undesirable or inappropriate to execute your order at once or in a single transaction we may execute it over such period as we deem appropriate and we may report to you an average price for a series of transactions so executed instead of the actual price of each transaction.
- 5.10 When we execute an order for you, we will consider a number of factors in deciding where to route your order for execution. These factors include the total consideration payable (taking account of applicable costs), yield, speed of execution, likelihood of execution and settlement, the size and nature of your order and any potential market impact that may be caused by executing your order. We will generally execute transactions based on the consideration identified and available to us at the point of dealing, unless there is a reason why in our opinion it is not in your best interests to do so. You agree that:
- 5.10.1 the relative importance of the execution factors may vary from transaction to transaction depending on the circumstances of the trade and the prevailing market conditions;
 - 5.10.2 when we execute your transaction via our electronic dealing systems, we may poll different brokers to identify the best available terms; and
 - 5.10.3 if an order cannot be executed automatically, it will be dealt manually by our dealing professionals, who will consider the circumstances of each deal and decide on the appropriate course of action. This may include the prioritization of another execution factor (such as speed or certainty of execution among others) over the best market price when in our opinion it is in your best interests to do so.

6 Payments and Settlement

- 6.1 You shall take all action necessary to enable us to effect settlement and delivery of instructions and transactions as they fall due in accordance with the requirements of the Market Regulations or of the relevant exchange, market or clearing house including but not limited to making any appropriate payment and or delivering any securities or other assets to us in good time for us to complete settlement and delivery. If any payment or delivery is not received or is incomplete or incorrect when received we may without notice liquidate the transaction or buy in on the market in order to meet our or your performance obligations or take such other action as we in our absolute discretion may consider appropriate. You irrevocably and unconditionally authorize us to deduct or set-off any applicable fees or charges from a payment received from you or on your behalf before we credit such payment to your Trading Account.
- 6.2 Unless otherwise expressly agreed between us, all payments by you under this Agreement shall be made in immediately available funds free of any deductions or withholdings and without exercising any right of set-off
- 6.3 We may require you to:
- 6.3.1 maintain or supplement any deposit or margin in respect of any transaction we enter into with you or for you; or
- 6.3.2 meet any other call for further funds made under the terms of any investment made for you or agreed between us against foreign exchange fluctuations. Where this is the case, you must make any payment and deliver any cash or other assets on or before the relevant due date.
- 6.4 We may refuse to act on any instruction or, as applicable, carry out any part of a transaction where:
- 6.4.1 your Trading Account does not hold sufficient cleared funds (or, at our sole discretion, Securities or credit limits or other permitted collateral) to satisfy all obligations, whether present, future or contingent in relation to that instruction or transaction; or
- 6.4.2 to do so would result in an unauthorized overdraft, uncovered position or other unfunded liability, or borrowing against assets in your Trading Account
- and we may reverse and settle such transactions at your risk. You accept full liability for any resulting losses.
- 6.5 We are not responsible for delivery or payment by the counterparty (or other third party) to any transaction we place or execute as your agent. We will only make that delivery or payment if we receive the relevant assets or sale proceeds from the counterparty.
- 6.6 The Securities settlement conventions and regulations in certain markets which apply to the holding of assets or settlement of transactions for you may result in a delay before proceeds of sale are received for you or title to a Security passes to you.
- 6.7 Where we convert foreign currency, we will use a quoted rate of exchange on the Business Day on which the conversion takes place. We may charge commissions on foreign currency transactions which we execute for you.
- 6.8 Payments to you will be paid into such account or such manner as is indicated in your Client Account Opening Form or in such manner as we may deem appropriate at our absolute discretion.
- 6.9 Instructions to make payments shall only be acted upon on receipt of a proper Payment Order which must be in writing.
- 6.10 If we receive any Payment Order or other instruction and:
- 6.10.1 we are concerned that it may not have come from you or an Authorized Person, it contains incorrect information or is illegible; or
- 6.10.2 it is for more than a limit we set for security purposes; or
- 6.10.3 for some other reason, such as suspected fraud or we want to check the instruction with you,
- we may ask you to confirm it in a manner reasonably acceptable to us and we will not act on it until you have confirmed it.
- 6.11 You acknowledge that when making electronic payments to an overseas account the payment may be processed through an intermediary or clearing bank situated outside Kenya. In the case of intermediary or clearing banks situated outside Kenya, the legal and regulatory regime applying to such banks will be different from that in Kenya. You agree to pay any charge for processing payment levied by intermediary and clearing banks and you acknowledge that the charges may vary according to each specific institution. Such charges are deducted prior to the payment reaching its destination account. Once we have issued the payment to an intermediary or clearing bank for payment into an overseas account, we are not liable for any charges that may have been applied or for any delay in the payment reaching its' destination account. The same applies to:
- 6.11.1 incoming overseas electronic payments where the destination account is held with us; and
- 6.11.2 any other incoming or outgoing electronic payments.
- 6.12 From time to time, we may add other currencies to the list of currencies in which you may hold funds or settle.

7 Fees, Taxes and Charges

- 7.1 You shall promptly pay and shall be solely responsible for any and all charges, commissions, transfer fees, registration fees, taxes (including any capital gains taxes payable), duties, fiscal liabilities or all other liabilities or costs payable in respect of or in connection

with the Portfolio or this Agreement.

- 7.2 Our fees and charges are dependent on Market Regulations and therefore are subject to change from time to time. Further details on our prevailing fees and charges may be obtained from our Head of Operations upon request. Our charges and fees may be amended from time to time without notice to you.
- 7.3 You have the sole responsibility for the management of your legal obligations and tax affairs including making any applicable filings and payments and complying with any applicable laws and regulations. We have not and will not provide you with tax or legal advice and we recommend that you obtain your own independent tax and legal advice tailored to your individual circumstances. The tax treatment of Securities may be complex, and the level and basis of taxation may alter during the term of any investment. You should therefore obtain professional tax advice appropriate to your own circumstances before investing. We shall not be responsible for claiming, on your behalf, any entitlement or benefit which you may have under any applicable taxation treaties or arrangements.

8 Reporting Transactions

- 8.1 For instructions effected locally, we shall send to you a confirmation, such as a contract note, in respect of each transaction within the time required by the Act. If we have instructed an intermediate broker on your behalf, the confirmation may be a copy of the confirmation sent to us by the intermediate broker.
- 8.2 Any confirmation or account statement which we give in writing shall be deemed correct, conclusive and binding on you if not objected to in writing by you within three (3) Business Days of delivery to you of the confirmation or we notify you of an error therein within the same time period.

Part C: Client Assets

9 Nominee Services and Custody

- 9.1 Subject to agreement with you, we may hold or deal in your Securities in trust through a nominee. Such Securities will be registered in the name of such nominee as Kestrel may determine from time to time to hold client Securities in trust (presently "Kestrel Capital Nominees Limited", a wholly owned subsidiary of Kestrel).
- 9.2 All Securities purchased or otherwise acquired by us as your nominee shall be registered (except for bearer stocks) in the name of our nominee or the name of another custodian appointed by us. Documents of title to bearer securities and assets shall be kept separately from any documents of title to bearer securities and assets belonging to you in our own physical possession. Bearer or other non-registered Securities may not always be held by us directly but may be held by one or more third parties (including clearing systems, custodians and overseas agents) directly or indirectly, and may be for its or their account.
- 9.3 You should note that nominee account holders shall not receive certain entitlements, such as annual report and accounts, nor attend annual (or other) meetings and vote at such meetings.
- 9.4 Overseas/foreign investments may be registered or recorded in the name of a custodian or in our nominee's name in one or more jurisdictions outside Kenya where we determine that, due to legal requirements or the nature of market practice in the jurisdictions concerned, it is in your best interests or it is not feasible to do otherwise. As a consequence of this, your investments shall not be segregated from investments belonging to us or our nominee and therefore your protection may be less should a default occur on the part of the person in whose name the investments are registered or recorded. Investments belonging to you which are held overseas may be subject to different settlement, legal and regulatory requirements than those which apply within Kenya. We accept no liability for the default of any nominees, custodians or third parties.
- 9.5 Investments registered or recorded in the name of a nominee shall be pooled with those of one or more of our other clients. Accordingly your individual entitlements may not be identifiable by separate certificates, physical documents or entries on the register or equivalent electronic records. In the event of an irreconcilable shortfall following any default or failure by the custodian responsible for pooled investments, you may not receive your full entitlement and may share in that shortfall pro-rata to your original share of the assets in the pool. When corporate events (such as partial redemptions) affect some but not all of the investments held in a pooled account we shall allocate the investments so affected to particular customers in such fair and equitable manner as we consider appropriate (which may without limitation involve *pro rata* allocation or impartial random selection).
- 9.6 Where we act as a nominee, we shall collect any dividends, interest, payments or other entitlements to which you may be entitled and of which we are notified and shall remit to you such dividends or interest as soon as possible after deduction of any taxes and duties payable or credit them to your account.

10 Client money

Any money which we hold for you shall be held as client money in accordance with the Act. We may pass money held for, or received from, you to a third party (such as an exchange or intermediate broker, over the counter counterparty or settlement agent) to hold or control in order to effect a transaction through or with that person or to satisfy your obligation to provide collateral (for example a margin requirement) in respect of a transaction. You acknowledge and agree that if such a person is outside Kenya, the applicable legal and regulatory regime shall be different from that of Kenya and your money may be treated differently from the position which would apply if your client money had remained in Kenya. All fees, costs or charges incurred as a result of holding or paying out money held by us (or on our behalf) under this Agreement shall be borne and promptly paid by you as and when they arise. We shall not in any way be liable for any costs or charges incurred by us (or on our behalf) as a result of any money held, paid to or dealt with on

your behalf under this Agreement. As Kestrel is not a licensed deposit taking financial institution, Kestrel will generally not pay interest on client money held by us unless specifically agreed in writing beforehand for a specific amount, time period and interest rate. This condition also recognizes the fact that client money is generally held in non-interest bearing call accounts at banks.

11 Powers on default

- 11.1 You must ensure that, when purchasing an investment, you have sufficient funds available to pay in full for the investment on the settlement date. If you do not, we may, but are not obliged to, take one or more of the following actions (“**Default Actions**”):
- 11.1.1 if practicable, not execute the transaction;
 - 11.1.2 settle the transaction on your behalf at our expense and recover that expense from you in such manner as we may determine – including exercising our right of set-off under clause 12 below;
 - 11.1.3 sell, at the prevailing market price, sufficient of the Securities for which settlement is outstanding to recover the amount of any shortfall; and
 - 11.1.4 sell at the prevailing market price, sufficient of your other Securities to recover the amount of any shortfall.
- 11.2 We will act reasonably in deciding whether to take any of the Default Actions and which of those actions to take, having regard to the relevant circumstances at the time. We may, for example, take into consideration market conditions and the rules of any clearing house.
- 11.3 If we need to take any Default Action:
- 11.3.1 you will be liable for and shall indemnify us in respect of any losses we incur in connection with the Default Action; and
 - 11.3.2 we will notify you of the action we have taken, together with the details of any amounts that you are required to pay as a result.
- 11.4 Any crediting to your Trading Account of cash or investments is subject to reversal if, in accordance with Market Regulations, the delivery of investments or cash giving rise to the credit is reversed.

12 Right of Set-off, Default and Realisation of Client's Assets

- 12.1 Any sums due to us or any third party in respect of commissions, costs, fees, expenses or otherwise pursuant to this Agreement (plus any applicable taxes) may be set-off and deducted, without prior notice, from the Portfolio held by us or under our control and we may have recourse against and sell, realize or dispose of the Portfolio (or any part thereof) and apply the proceeds in or towards discharge of such sums. You hereby acknowledge, accept and irrevocably authorize us or any third party to deduct and set-off any commissions, transfer fees, registration fees, taxes, duties and other fiscal liabilities and all other liabilities and costs (including withholding taxes) in connection with this Agreement from payments due to you or otherwise from the Portfolio (or part thereof).
- 12.2 Without prejudice to clause 12.1, if we do not receive either cash or Securities when due in respect of any transaction which we are to settle or execute with or for you, or you do not take all steps necessary to secure the due and prompt execution and settlement of any such transaction, or you fail to meet or we believe in good faith that you are about to fail to meet any other liability to us or any third party, we may without prior notice cancel, close out, terminate or reverse all or any transactions, buy in to settle or close any short position created by you, and sell, realise, charge, pledge or otherwise dispose of any Securities, cash or other assets held for you or which we may be entitled to receive or control on your behalf at whatever price and in whatever manner we see fit in our absolute discretion (without being responsible for any loss or diminution in price) and may enter into any other transaction or do or not do anything (including the application of client money held for you) which would or could have the effect of reducing or eliminating liability under any transaction, position or commitment undertaken by or for you.
- 12.3 We reserve the right to charge interest at our discretion, appoint a receiver or levy a receivership or debt recovery charge if you fail to fully pay your debts on the due settlement date. If you have not settled, or delivered appropriate settlement instructions for your Trading Account or nominee account(s), by the due date for settlement, then you shall be responsible for and agree to keep us indemnified against any losses incurred by us as a result, including without limitation, market buy-ins, fines and other market censures or any actions we take as a result thereof.
- 12.4 Subject to due compliance with Market Regulations in connection with any such disposal, we shall not be liable to you in respect of any loss arising nor in respect of any choice made by us or any third party in selecting the Portfolio sold or disposed of. The proceeds of any sale or disposal of such Portfolio (net of costs and expenses) shall be applied in or towards discharge of your liabilities and we shall account for any balance. In the event that such proceeds of sale are insufficient to cover the whole of your liabilities, you remain liable for all outstanding amounts.
- 12.5 If you control or are a beneficiary of more than one Trading Account with us, we shall have the right to set off any amounts due to us or third parties from the credit on another.

Part D: Conflicts, Risks and Disclosures

13 Conflicts of interest

- 13.1 In relation to any advice we give or transaction we execute or arrange with or for you, we or any of our affiliates may have an interest, relationship, arrangement or duty which may give rise to a conflict of interest with your interest(s) in relation to the

investment or transaction concerned, in which case we shall act reasonably to ensure fair treatment to you in relation to any such transactions.

- 13.2 A conflict of interest may include but is not limited to:
- 13.2.1 dealing as principal for our (or our affiliate's) own account by selling the investment concerned to you or buying it from you, or being a market-maker or otherwise having a holding or dealing position in the transaction concerned or an associated transaction;
 - 13.2.2 providing services similar to the Services provided to you to other clients;
 - 13.2.3 any of our or an affiliate's directors or employees being a director of, holding or dealing in investments of or otherwise being interested in any company whose Securities or other investments are held or dealt in on your behalf;
 - 13.2.4 being in receipt of instructions from another client to buy or sell the same investments;
 - 13.2.5 matching your transaction with that of another client by acting on or for his behalf as well as yours where we are acting or seeking to act as agent for (and to receive and retain commission or other charges from) both parties;
 - 13.2.6 acting as lead broker to the issuer of the Securities concerned;
 - 13.2.7 being involved as broker, sponsor, underwriter or otherwise in a new issue, underwriting, rights issue, takeover or similar transaction concerning the investment, or the issuer of the investment or a related investment;
 - 13.2.8 receiving payments or other benefits for giving business to a firm with or through which your order is placed or executed;
 - 13.2.9 being (or being adviser to) the trustee, operator or manager of an investment fund, units in which we are buying or selling to or from you or on your behalf; or
 - 13.2.10 providing or having provided venture capital and/or related advice to the company whose securities are the subject of the transaction.
- 13.3 We or any of our affiliates shall be entitled to provide any service agreed between us notwithstanding any material interest and we shall not be under a duty to disclose to you any profit arising therefrom and without further reference to you. However, in such cases we may in our absolute discretion decline to carry out a transaction for or with you or to give advice or make a recommendation to you.
- 13.4 We shall not be liable to account to you for or (save in respect of fees or commissions charged to you) to disclose to you any profit, commission or remuneration made or received (whether from any client or by reason of any material interest or otherwise) by us by reason of any Services provided or transaction executed with or for you.
- 13.5 You agree and accept that third parties may pay fees or commissions or provide other non-monetary benefits to us in connection with the provision of the Services, and you irrevocably accept and consent to us retaining any such fees, commissions or non-monetary benefits and confirm that we shall not be required to account for them.

14 Risks associated with the Services

- 14.1 All investment is subject to risk and the degree of risk is a matter of judgment and cannot be accurately pre-determined. We give no warranty or assurance as to the performance or profitability of your transactions with us or your Portfolio or any part thereof.
- 14.2 Transactions involving local and foreign investments may involve significant risk. Any instructions or investments relating to local or foreign investments and markets may be illiquid and unsuitable for all investors. The value of or income from any local or foreign investments may fluctuate and/or be affected by changes in exchange rates. Only investors with sufficient knowledge and experience in financial and business matters to evaluate the relevant merits and risks should consider transacting in local and foreign investments and markets.
- 14.3 Where you appoint us to act as your nominee, we will act when instructed in writing by you and you accept that such instruction is given at your own risk. In the absence of such instruction, we may at our sole discretion act on your behalf in such manner as we will deem fit.
- 14.4 Should you instruct us in writing that Securities purchased through us be registered in the name of some other person whom you specify, the consequences of registration carried out in accordance with your instructions are entirely at your risk.
- 14.5 You may, at your sole risk, instruct us to execute an order outside a regulated market.

Risk Disclosures

- 14.6 The value of investments and the amount of income derived from such investments may fluctuate (decrease or increase). All investments may be affected by a variety of factors, including macro-economic market conditions such as the interest or exchange rate environment, or other general political factors in addition to more company or Security specific factors.
- 14.7 Some investments may be very illiquid, meaning that they are infrequently traded, and hence it may be difficult to sell within a reasonable timeframe or at a price which reflects "fair" value. In extreme cases an investment may be non-readily realizable.
- 14.8 Where any transaction is executed by us as agent for you (including overseas transactions), delivery or payment (as appropriate) by counterparty or any other party to the transaction is at your entire risk.

- 14.9 Investments denominated in foreign currencies may have additional risks related to the relevant exchange rate. Movements in exchange rates may cause the value of an investment to fluctuate either in a favorable or unfavorable manner.
- 14.10 The price volatility of equity markets may change abruptly and should not be assumed to follow historic trends. In adverse market conditions, irrecoverable capital losses could be incurred. In the worst case, a company or other investment may fail and the value of its equity may reduce drastically. Examples of typical characteristics which could heighten equity investment risks are:
- 14.10.1a low market capitalization;
- 14.10.2a product set that is undiversified or reliance on single markets as a major source of income;
- 14.10.3a significant reliance on borrowing as a source of finance; or
- 14.10.4a significant level of fixed costs to pay, irrespective of output, production or turnover levels
- 14.11 Transactions in foreign exchange and derivatives carry a high degree of risk. The amount of initial margin may be small relative to the value of the foreign exchange or derivatives contract so that transactions are “leveraged” or “geared”. A relatively small market movement will have a proportionately larger impact on the funds you have deposited or will have to deposit; this may work against you as well as for you. You may sustain a total loss of initial margin funds and any additional funds deposited with us to maintain your position. If the market moves against your position and/or margin requirements are increased, you may be called upon to deposit additional funds on short notice to maintain your position. Failing to comply with a request for a deposit of additional funds within the time indicated may result in closure of your positions by us on your behalf and you will be liable for any resulting loss or deficit.
- 14.12 Any income you receive from your investment in a collective investment scheme may vary with the dividends or interest paid by the underlying investments and therefore may fall as well as rise. Collective investment products that focus on a country, sector or market index may display greater volatility than the wider market and so should be considered as higher risk than more widely invested collective investment products.
- 14.13 Before publishing a research recommendation, we or our affiliates may have acted upon it or made use of information on which it is based. Recommendations and comment in our research publications may be affected by subsequent changes in market conditions, particularly in share prices. Unless expressly acknowledged by us in writing, these publications are not personalized or tailored in any way to your individual circumstances. Any recommendations made shall not necessarily be suitable for you and should not be treated as a recommendation to you to engage in a particular strategy or course of action.

Part E: Liability, Indemnity and Client Warranties

15 Liability and indemnity

- 15.1 By instructing us you warrant and acknowledge that you are aware of the risks inherent in local and foreign investments and you accept that such risk may result in financial loss to you and you irrevocably and unconditionally agree and accept that we shall not be liable to you for any loss howsoever arising from such loss.
- 15.2 We shall not be liable to you for any loss caused by any system failure including but not limited to communications and computers.
- 15.3 We shall not be liable for any real or implied loss suffered by you in connection with the Services, including unexecuted orders or instructions, unless such loss directly arises from our willful default or fraud. We shall not be liable for any special, indirect, incidental or consequential damages (including lost profits, trading losses and damages) that you may incur in connection with my use of the Services. You irrevocably accept that our total liability in respect of any transaction shall be limited to the value of your Securities in that transaction at the time the loss occurred.
- 15.4 We shall not be liable, responsible or accountable for any taxes, fees or charges withheld in Kenya or in any other jurisdictions outside Kenya by any entity or authority (whether Governmental or otherwise) and we expressly exclude any liability or loss arising from any such taxes, fees or charges.
- 15.5 We shall not be liable for any default of any third party broker, counterparty, exchange, clearing house, depository, bank, custodian, sub-custodian or other entity which holds money, investments or other documents of title on your behalf or with or through whom transactions on your behalf are conducted.
- 15.6 Whilst providing you with the Services, you irrevocably accept that we shall not be liable for and you agree to keep us fully indemnified in respect of any losses howsoever arising (including but not limited to foreign exchange losses) from dealing in or conversion of foreign currency under this Agreement.
- 15.7 You acknowledge that settlement difficulties may arise in local and/or international markets (some of which may not be listed on recognized securities exchanges) and you unequivocally agree that we shall not be liable for any loss or loss of profit caused by any delay in settlement or failure to settle.
- 15.8 Where the Services to be provided to you involve the provision of information, such information is provided solely to enable you to make your own investment decisions and does not constitute personal investment recommendation or advice. We will use reasonable endeavours to ensure that such information is accurate but you acknowledge that information provided by us may be based upon information obtained from third parties and/or which is incomplete or unverified. We shall not be liable for any costs, claims, liabilities, expenses or losses which you may suffer as a result of relying on any such information. Further, you agree, accept

and acknowledge that you shall be dealing with us on an execution-only basis in reliance solely on your own judgment. In this regard, you should bear in mind that if we merely explain the terms of an investment or its performance characteristics this does not of itself amount to advice on the merits of a transaction in the investment or on the legal or tax status or consequences. We do not hold out any of our employees or agents as having any authority to provide any representations, trading suggestions, recommendations or research to you. We will not be liable for any losses which you might incur if you rely on such information.

Indemnity

- 15.9 You undertake to, on demand, keep us, our directors, our agents and our employees fully and effectively indemnified against all loss, costs, charges, liabilities and expenses howsoever incurred by us, our directors, our agents and employees pursuant to or in connection with:
- 15.9.1 the provision of the Services;
 - 15.9.2 any transaction or service requested by you and subsequently performed or transmitted by us on your behalf;
 - 15.9.3 our having incurred obligations to any third party in the course of carrying out our obligations and covenants and in the provision of the Services;
 - 15.9.4 the enforcement or attempted enforcement of our rights or remedies in this Agreement against you including without limitation any legal fees;
 - 15.9.5 any breach of Market Regulations or other law by you;
 - 15.9.6 any failure by you to perform or observe any of your obligations under this Agreement;
 - 15.9.7 our reliance on any of your declarations, undertakings, covenants, representations and warranties;
 - 15.9.8 any representation or warranty made or given by you under this Agreement proving to be untrue or incorrect;
 - 15.9.9 any error, omission, fraud, malfeasance, negligence, misappropriation or criminal act by you or by any of your clients, employees, agents or advisors; and
 - 15.9.10 any failure, error, omission or delay of your computer or communication systems.

16 Client's warranties

You hereby represent and warrant (which representations and warranties shall be deemed to be repeated by you on each time we receive instructions from you or on your behalf) that:

- 16.1 the information you have provided in your Client Account Opening Form or otherwise under this Agreement is current, accurate, truthful and complete.
- 16.2 you have full power and authority to execute and deliver this Agreement, each transaction and any other documentation relating thereto, and to perform your obligations under this Agreement and each transaction and have taken all necessary action to authorize such execution, delivery and performance;
- 16.3 any execution, delivery and performance of a transaction shall not violate or conflict with any law applicable to you, any provision of your constitutional documents or any charge, trust deed, contract or other instrument or any contractual restrictions applicable to, binding on or affecting you or any of your assets or oblige you to create any lien, security interest or encumbrance;
- 16.4 all governmental, regulatory and other consents that are required to have been obtained by you in relation to this Agreement have been so obtained and are in full force and effect and all conditions of any such consents have been complied with;
- 16.5 your obligations under this Agreement constitute your legal, valid and binding obligations, enforceable in accordance with their respective terms;
- 16.6 you shall comply with all laws, rules, regulations and disclosure requirements of any relevant jurisdiction, exchange, market or regulatory authority which apply in respect of us, you or your investments from time to time;
- 16.7 you shall promptly give (or procure to be given) to us such information and assistance as we may reasonably require to enable us to provide the Services or assist or achieve compliance with any of the obligations mentioned in clause 16.6 in relation to the Services;
- 16.8 you have the capacity to evaluate and understand the terms, conditions and risks of each transaction (whether or not recommended by us) entered into hereunder and you are willing and able to accept those terms and conditions and to assume (financially and otherwise) those risks;
- 16.9 you will not engage in insider trading or seek to otherwise use the Services or the Trading Account in a way that would constitute a breach of Market Regulations (for the purposes of this clause insider trading means trading of an entity's securities by persons in possession of material non-public information about that entity); and
- 16.10 you have been and are compliant with all tax declaration and reporting obligations relating to the Portfolio and any income or gains they produce.
- 16.11 You represent and warrant that the Portfolio is free from all liens, charges or other encumbrances and that no liens, charges or

other encumbrances shall arise from your acts or omissions.

17 Anti-money laundering

- 17.1 You shall not deposit or accept funds received from unknown or suspicious sources into the Trading Account. You will use the Trading Account solely in your personal capacity (except where otherwise expressly disclosed) and you will update the information and documents provided concerning your Trading Account where there is any change to such information as required by the provisions of the Proceeds of Crime and Anti-Money Laundering Act (Chapter 59B of the Laws of Kenya) and any other counter-terrorist financing laws or other Market Regulations in the Republic of Kenya or in any other jurisdiction in which the Services are or are to be performed.
- 17.2 You shall not use the Services in furtherance of money laundering, terrorism, the development, design, manufacture, production, stockpiling, or use of nuclear, chemical or biological weapons, weapons of mass destruction, or missiles, nor will you provide administrative access of the Services to any persons (including any natural person, government or private entity or other form of body corporate) that has any affiliation with others whatsoever who sponsor or support the above such activities or causes or is located in or is a national of any country that is embargoed, restricted or subject to sanctions under Market Regulations.
- 17.3 If we suspect any form of money laundering or terrorism financing, or at any time pursuant to our request, you shall immediately upon demand provide such due diligence information relating to you (together with a certification or translation, where required) as may be requested by us.
- 17.4 You hereby represent and warrant (which representations and warranties shall be deemed to be repeated by you on each date on which a transaction is entered into under this Agreement) that you are the principal holder of, and the sole beneficiary in respect of, the Trading Account, and that you shall not deposit or accept funds received from unknown or suspicious sources into the Trading Account. You will use the Trading Account solely in a personal capacity and will update the information and documents provided concerning the Client Account Opening Form if there emerges any reasons or changes so requiring, as required by the provisions of anti-money laundering and counter-terrorist financing laws or other Market Regulations in the Republic of Kenya or in any other country.

Part F: Delegation, Assignment and Third Party Rights

18 Delegation and use of agents

Without prejudice to the powers and terms of delegation specified in this Agreement, we may delegate any of our functions in respect of the Services to an affiliate of ours and provide information about you and the Services to any such affiliate on such terms as we may determine without your further consent but our liability to you for all matters so delegated shall not be affected thereby.

19 Assignment

This Agreement is personal to you and shall not be capable of assignment by you or of being transferred by you. We may assign, transfer or novate this Agreement (without any reference to you) to any of our affiliates or otherwise where we deem, at our sole discretion, such assignment, transfer or novation to be necessary for the continued provision of services to you.

20 Complaints

All formal complaints should in the first instance be notified in writing to us for the attention of the Head of Operations at Kestrel's principal offices whose details are set out in Clause 21 below within one (1) week of receiving information related to the complaint.

Part G: Notices, Amendments and Termination

21 Notices, instructions and other communications

- 21.1 We shall provide you with information relating to your Securities or cash held by us by sending periodic statements of activities and balances upon written request or making them accessible on our website (whose details are provided in Clause 21.2) or otherwise online.
- 21.2 Without prejudice to the provisions of this Agreement relating to the giving of dealing and similar instructions, any notification given to us under this Agreement shall be in writing and sent to the address set out below or such other address as may be notified by us to you and such notice to us shall take effect upon its actual receipt by us:

Kestrel Capital (East Africa) Limited
ICEA Building, 5th Floor
Kenyatta Avenue
PO Box 40005 - 00100
Nairobi, Kenya

Tel: + 254 (0) 20 2251758
Fax: + 254 (0) 20 2243264
Email: Operations@kestrelcapital.com

Website: www.kestrelcapital.com

Attention: Head of Operations

- 21.3 All written communications by us to you under this Agreement may be sent to the last postal or e-mail address notified to us by you or by posting such information on our website (whose details are provided in Clause 21.2) and shall be deemed to have been received by you when sent to the relevant address or when posted on our website as the case may be.
- 21.4 We may record telephone conversations with you without the use of a warning tone, and may use the recordings as evidence in the event of a dispute.
- 21.5 All communications between us under this Agreement and documents and other information provided by us to you in connection with our Services hereunder shall be in English.

22 Amendments

- 22.1 We may change, amend, supplement or delete any part of this Agreement and, in particular but without limitation, we may:
- 22.1.1 change the amounts that we charge you; and/or
- 22.1.2 introduce new or different rates or make new or different fees or charges for any reason whatsoever including one or more of the following reasons:
- (a) to enable us to harmonise our stockbroking charging arrangements with current market practice;
 - (b) to reflect changes in the costs or administrative overheads we incur or reasonably expect to incur, and/or to take into account inflation;
 - (c) to reflect a change in general banking and/or stockbroking practice;
 - (d) ensure that our stockbroking business is run prudently;
 - (e) to maintain the competitiveness of our stockbroking business taking into account actual or expected changes;
 - (f) to reflect changes to the way that we deal for you and look after your Portfolio;
 - (g) to reflect changes in the general market practice of brokers and their nominees, and others providing stockbroking or share;
 - (h) to reflect changes, or anticipated changes, to the law, or interpretation of the law, codes of practice or the way that we are regulated;
 - (i) to reflect a decision or recommendation made by, or a requirement of, a court, ombudsman, regulator or similar body;
 - (j) to reflect changes in technology, or to provide for the introduction of new or improved systems, methods of operation, services or facilities;
 - (k) to correct mistakes;
 - (l) to make these Terms easier for you to understand or fairer to you; or
 - (m) for any other valid reason (whether or not specified in this clause); or
- 22.1.3 change the rates or amounts of interest that we charge you or pay you.
- 22.2 We may give you notice of amendment of this Agreement by writing to you, emailing you or posting a message on our website.

23 Termination

- 23.1 Either party may terminate this Agreement without cause by thirty (30) Days written notice to the other.
- 23.2 Either party may terminate this Agreement immediately by notice in writing to the other party ("Breaching Party") on the occurrence of any of the following events:
- 23.2.1 breach by the Breaching Party of any of its obligations under this Agreement and such breach (if the breach is capable of remedy) is not remedied by the Breaching Party within fourteen (14) days after receipt of notice in writing from the other party requesting the Breaching Party to remedy such breach.
- 23.2.2 in the case of a corporate client, the passing by the Breaching Party of a resolution for its winding-up or the making by a court of competent jurisdiction of an order for the winding-up of the Breaching Party or the dissolution of the Breaching Party or in the case of an individual client the issue of a bankruptcy order against such client;
- 23.2.3 the making of a receivership order in relation to the Breaching Party or the appointment of a receiver over, or the taking possession or sale by an encumbrancer of, any of the Breaching Party's assets;
- 23.2.4 a revocation, non-renewal or threatened revocation or threatened non-renewal of any license or authority previously granted

under any Market Regulations by any statutory, regulatory or other body which has power over either party and which license or authority is required as a matter of law by either party in order for that party to perform its obligations in accordance with this Agreement.

23.2.5 the Breaching Party making an arrangement or composition with its creditors generally or making an application to a court of competent jurisdiction for protection from its creditors generally.

23.3 Termination of this Agreement pursuant to this clause shall be:

23.3.1 to the extent possible, without prejudice to the completion of any transaction or transactions already initiated and any transaction or all transactions outstanding at the time of termination shall be settled and delivery made;

23.3.2 without prejudice to and shall not affect any accrued rights, existing commitments or any contractual provision intended to survive termination; and

23.3.3 without prejudice to any amounts due to us including:

- (a) our outstanding fees and charges;
- (b) any expenses incurred by us in the provision of the Services or under this Agreement payable by you;
- (c) any additional expenses incurred by us in terminating this Agreement; and
- (d) any losses necessarily realized in settling or concluding outstanding obligations.

which shall be promptly and fully paid to us by you.

Part H: General

24 Confidentiality

24.1 We shall be under no duty to disclose to you or in making any decision or taking any action in connection with the provision of the Services to take into account any information or other matters which come to our notice or the notice of any of our employees, directors, agents or affiliates:

24.1.1 where this would, or we reasonably believe that it would, be a breach of any duty of fidelity or confidence to any other person; or

24.1.2 does not come to the actual notice of the particular account executive or other individual providing you with the Service in question.

24.2 You shall at all times keep confidential any information identified by us to be of a confidential nature acquired in connection with this Agreement or the Services, except for information which you are bound to disclose under compulsion of law or by request of regulatory agencies or to your professional advisers.

25 Force majeure

Whilst we shall endeavour to comply with our obligations in a timely manner you hereby irrevocably agree that we shall incur no liability whatsoever for any partial or non-performance of our obligations by reason of any cause beyond our reasonable control including but not limited to any communications, systems or computer failure, market default, suspension, failure or closure, or the imposition or change (including a change of interpretation) of any law or governmental or regulatory requirement and we shall not be held liable for any loss you may incur as a result thereof.

26 Joint accounts

This clause applies where you consist of more than one person such as joint account holders, trustees or personal representatives.

26.1 You shall be jointly and severally liable for the obligations of all and any of you under this Agreement or in any other dealings between you and us.

26.2 Unless and until we receive written notice signed by all of you withdrawing or varying the same so as to limit such authority to a specific named individual:

26.2.1 each joint holder shall have authority on behalf of all the joint holders to deal with us as fully and completely as if it were the sole owner of the account without any notice to the other joint holders;

26.2.2 any of the joint holders may give us an effective and final discharge in respect of any of their obligations;

26.2.3 any notice or communication given to one joint holder shall be deemed to be given to all.

26.3 On the death of any of you, this Agreement shall not terminate but remain binding on the other person(s) constituting our client and we may treat such survivor(s) as the only persons party to this Agreement with us.

26.4 Where you are trustees of a trust or personal representative of an estate, you undertake to give us notice forthwith of any change in trustees or personal representatives.

- 26.5 Where you are trustees of a trust, you undertake to supply us with copies of any documents now existing (or hereafter executed) limiting, extending or varying the powers of the trustees or amending the objects of the trust and any other documents or information we may reasonably require in connection therewith.
- 26.6 Notwithstanding the foregoing we reserve the right at our sole discretion:
- 26.6.1 to require joint instructions from some or all of the joint holders before taking any action under this Agreement; and
- 26.6.2 if we receive instructions from a joint holder which in our opinion conflict or are inconsistent with other instructions, advise one or more joint holders of such conflict or inconsistency and/or take no action on any such instructions until we receive further instructions satisfactory to us.
- 26.7 Unless otherwise agreed between us, persons authorized to give instructions on Trading Accounts of unincorporated clubs, charities, societies and other forms of association are individually and jointly liable for money owed to us.

27 Governing Law and Dispute Resolution

- 27.1 This Agreement shall be governed by and construed in accordance with Kenya law.
- 27.2 If a dispute arises out of the terms of this Agreement the parties undertake to make every effort to reach an amicable settlement including scheduling and attending meetings. If an amicable settlement has not been reached within thirty (30) calendar days of the dispute first arising, then the dispute shall be referred to arbitration in accordance with Clause.
- 27.3 Any dispute, disagreement or question arising out of or relating to or in consequence of this Agreement or relating to its construction or performance which cannot be settled amicably as referred to in Clause 27.2 above shall be referred to and finally resolved by arbitration in Kenya in accordance with the provisions of the Arbitration Act, 1995 of the laws of Kenya by one or more arbitrators appointed by the Chairman for the time being of the Chartered Institute of Arbitration, Kenya Branch, on the application of a party. The language of the arbitration shall be English. Each party shall bear its own cost of preparing and presenting its case. The costs of arbitration (including fees and expenses of the arbitrators) shall be shared equally between the parties unless the award provides otherwise.
- 27.4 The terms of this Agreement shall not prevent or delay the parties from seeking orders for specific performance or interim or final injunctive relief on a without notice basis or otherwise and the terms of Clauses 27.2 and 27.3 above shall not apply to any circumstances where such remedies are sought.
- 27.5 Any order, award or other decision or finding of a court of competent jurisdiction and/or the arbitrator(s) or any agreement reached by way of settlement between the parties in respect of any dispute, disagreement or question arising out of or relating to or in consequence of this Agreement or relating to its construction or performance shall be enforceable in any jurisdiction in which either of the parties has assets.

28 Miscellaneous

- 28.1 Our appointment under this Agreement is given by you on behalf of your successors in title as well as yourself. Accordingly, if you being an individual should die and are not one of a number of joint holders as contemplated in clause 26 this Agreement shall continue in effect until terminated by us or your personal representatives in accordance with clause 26 above. We may (but prior to any grant of representation are not bound to) act on the instructions of your personal representatives.
- 28.2 This Agreement supersedes any previous agreement between the parties relating to the subject matter of this Agreement.
- 28.3 Each of the parties shall execute all deeds or documents (including any power of attorney) and do all such other things that may be required from time to time for the purpose of giving effect to this Agreement and the transactions contemplated hereby.
- 28.4 Each of the parties acknowledges and agrees that in entering into this Agreement, and the documents referred to in it, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) of any person (whether party to this Agreement or not) other than as expressly set out in this Agreement.
- 28.5 Nothing in this Agreement (or any of the arrangements contemplated hereby) shall be deemed to create a partnership between the parties.
- 28.6 No failure to exercise or delay in exercising any right or remedy under this Agreement shall constitute a waiver thereof and no single or partial exercise of any right or remedy under this Agreement shall preclude or restrict any further exercise of such right or remedy. The rights and remedies contained in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.
- 28.7 If any term or provision in this Agreement shall in whole or in part be held to any extent to be illegal or unenforceable under any enactment or rule of law that term or provision or part shall to that extent be deemed not to form part of this Agreement and the enforceability of the remainder of this Agreement shall not be affected thereby.

29 Rights of Client

The client retains the following basic rights.

- 29.1 The right to receive title for any securities purchased and fully paid for.
- 29.2 The right to receive or have access to a statement of all fees and charges.
- 29.3 The right to receive information on remuneration received by Kestrel from 3rd parties for the services provided to the client

- 29.4 The right to ask for information on the experience, qualifications and disciplinary history of Kestrel.
- 29.5 The right to receive interest on funds held by Kestrel recognizing that Kestrel will generally not pay interest on client money held by us unless specifically agreed in writing beforehand for a specific amount, time period and interest rate, further recognizing the fact that client money is generally held in non-interest bearing call accounts at banks.
- 29.6 The right to receive payment for securities sold in a timely manner, in accordance with relevant settlement rules and in consideration of factors not within the control of Kestrel.
- 29.7 The right to know Kestrel's conflict of interest policy.
- 29.8 The right to complain and to have the complaint dealt with fairly and promptly.