

**REF: ACUB220302**

**PRIVATE CLIENT**

**TERMS OF BUSINESS**

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1. General

The purpose of this Terms of Business (“ToB”) is to set out the general terms under which Acuvest Limited (“Acuvest” or the “Firm”) will provide services to you and the respective duties and responsibilities placed upon Acuvest and upon you as our customer. Please ensure you read these ToB thoroughly and if you have any queries we will be happy to clarify them.

If any material changes are made to these ToB we will provide you with a revised ToB as soon as possible. Unless we receive written notification to the contrary your acceptance of any revised ToB issued to you will be implicit.

# Contact Details

Acuvest Limited trading as Acuvest is located at 67 Merrion Square South, Dublin 2. Contact number 016344510. Email info@acuvest.ie.

# Regulatory Status and Statutory Codes of Conduct

**Regulatory Status**

Acuvest is regulated by the Central Bank of Ireland (the “Central Bank”) pursuant to the European Union (Markets in Financial Instruments) Regulations 2017 (as amended) (the “MiFID II Regulations”).

* + *Acuvest was originally authorised under the Investment Intermediaries Act, 1995 (as amended) (“IIA 1995”) to provide investment advice in respect of certain investment instruments, and continues to do so.*
  + *Acuvest was deemed authorised under the European Communities (Markets in Financial Instruments) Regulations, 2007 (as amended) (the “MiFID I Regulations”) when this legislation came into effect in November 2007 and is now authorised to provide investment advice under the MiFID II Regulations since it came into effect on the 3 January 2018.*
  + Acuvest is also regulated as an insurance intermediary under the European Union (Insurance Distribution) Regulations, 2018 (the “Insurance Distribution Regulations”).

Acuvest’s reference number with the Central Bank is C29617. The Central Bank’s register of Financial Service Providers can be checked by visiting its website http://registers.centralbank.ie/FirmSearc hPage.aspx, or by contacting the Central Bank (New Wapping Street, North Wall Quay, Dublin 1, Telephone +353-1-224 6000).

Please see Appendix 1 for a list of the Firm’s current authorisations and a Schedule setting out its Authorised Activities, and which also details the financial instruments under the MiFID II Regulations and the investment instruments under the IIA 1995 for which Acuvest is authorised by the Central Bank to provide investment advice.

We may also provide you with services or products that are not regulated by the Central Bank. Please note that the Central Bank is not responsible for governing the provision of unregulated services by Acuvest. Accordingly, such services and products are not covered by any Central Bank statutory codes of conduct, which are designed to protect clients, or under the MiFID II Regulations or under the Insurance Distribution Regulations. Neither are they covered by any statutory compensation scheme.

Acuvest holds appointments from investment product producers in respect of certain products. The Firm will explain to you the range of products that may be recommended, including the Firm’s relationship with the investment product producers before providing you with MiFID investment advice.

**Statutory Codes of Conduct**

Acuvest is subject to and complies with certain codes as follows:

The Consumer Protection Code 2012 (revised 2015) (the “CPC”); and

The Minimum Competency Code 2017 (the “MCC”).

These statutory codes offer protection to clients and can be found on the Central Bank’s website at www.centralbank.ie.

1. MiFID Investment Services

Paragraphs 3 to 10 inclusive address our provision of investment advice to you relating to the MiFID type financial instruments and IIA investment instruments set out in Appendix 1.

# Business Description – Our Investment Services

Acuvest provides individually tailored financial planning, investment advice and implementation support to clients. Appendix 1 - Schedule of Authorised Activities, sets out the services along with the financial instruments and investment instruments that the Firm is currently authorised to deal with.

Acuvest engages on a regular basis with many of the leading global asset and investment management firms on behalf of our clients and monitors other investment funds and products.

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# Investment Advice

To the extent that Acuvest provides you with investment advice, please note that this advice is provided to you on an independent basis and is based on a broad range of financial instruments and/or investment instruments (together to be known as “Instruments”) available on the market and is not limited to Instruments issued or provided by entities having close links with Acuvest or any other legal or economic relationships, such as contractual relationships (please note that Acuvest has no such links with any product producers dealt with), so close as to pose a risk of impairing the independent basis of the advice provided.

Acuvest will also provide you with a periodic assessment of the suitability of the Instruments recommended (see paragraph 6. below).

Furthermore, when Acuvest provides investment advice in relation to these Instruments, Acuvest will explain to you the range of Instruments that may be recommended, including Acuvest’s relationship with the issuers or providers of the Instruments. Acuvest does not have a ‘tied’ relationship with any of these institutions, as this would compromise our ability to offer clients independent/impartial advice.

The Firm will provide a description of the types of Instruments considered, the range of Instruments and providers analysed per each type of Instrument according to the scope of the service, and how the service provided satisfies the conditions for the provision of investment advice on an independent basis and the factors taken into consideration in the selection process used by the Firm to recommend Instruments, such as risk, costs and complexity of the Instruments.

# Client Categorisation

Acuvest is obliged to a) categorise clients either as retail clients, professional clients or eligible counterparties before engaging in investment business with the client for the first time and b) to inform them how they have been categorised and the consequences of the categorisation.

Based on the information available to Acuvest, we have categorised you as a Retail Client as defined in Regulation 3(1) of the MiFID II Regulations and will treat you as such in respect of all business we conduct with you or for you unless we agree to a different categorisation. Categorisation as a Retail Client affords you the highest level of protection under the MiFID II Regime.

You can, subject to meeting certain defined criteria, request a different categorisation in respect of a given service, product or transaction or in respect of all services which Acuvest provides to you. Any such request should be made in writing.

Acuvest reserves the right to reject your request for a change in categorisation. However, where Acuvest agrees to a request for a change in categorisation it should be noted that this will result in a lower level of client protection, for example, Professional Clients are not eligible for compensation under the Investors Compensation Act, 1998 (as amended) (see paragraph 24 below). Also, when assessing suitability Acuvest is entitled to assume that, in relation to the products, transactions and services for which Professional Clients have been so classified, they have the necessary level of experience and knowledge to understand the risks involved in the management of their investments. This assumption cannot be made in the case of Retail Clients, where this information must be assessed separately. Full details regarding any limitations to the level of client protection that a different categorisation would result in, will be disclosed in advance to you in a durable medium.

# Environmental, Social and Governance (“ESG”) “sustainability" considerations

When providing advice, Acuvest considers the adverse impact of investment decisions on sustainability. As part of our research and assessment of products, Acuvest will examine and professionally interrogate the Product Providers and Insurers literature to compare financial products and to make informed investment decisions about ESG products. Acuvest’s in-house Investment Committee will keep our investment knowledge current and relevant. Acuvest will always act in the client’s best interests and keep clients informed accordingly. The consideration of sustainability risks can impact on the returns of financial products.

# Investor Profile and Suitability of Services

We are required to obtain and record sufficient investment related information from you as is necessary to ensure that we can provide you with suitable investment advice and to act in your best interests. The information we may require includes details of your investment objectives including your risk tolerance, information on your financial resources including your ability to bear losses, your investment preferences, your preferences in relation to ESG “sustainability” considerations, and your investment experience and knowledge in the investment field in so far as it is relevant to the investment advice offered. It also might include your personal circumstances including, where relevant: age, health, dependents, employment status and known future changes to your circumstances.

Where you are subject to any self- imposed investment restrictions (i.e. other than those imposed by law or regulation) it is your responsibility to detail this in writing to us. We take no responsibility for advising you in respect of such restricted investments where you have not explicitly notified us of any such restriction(s) in writing.

We have a duty to take reasonable care when determining the suitability of the service and in advising clients generally based on information that has been disclosed to us by them. We will consider the suitability of the investments recommended by us based on the information you provide to us.

We must endeavour to have you certify the accuracy of the information provided to the Firm. Accordingly, as our client, you represent and warrant, for the duration of any service agreement(s) entered into with the Firm, that all information which you provide or have provided to Acuvest including information relating to your financial situation and investment objectives is accurate, complete and not misleading in any respect (including, without limitation, such information as has been provided to Acuvest to evidence suitability under the MiFID II Regulations) and you have notified Acuvest of all such information.

When Acuvest is providing investment advice and does not obtain the information required to assess suitability, Acuvest will not recommend investment services or Instruments to you. Furthermore, when the Firm is providing investment advice the Firm will not recommend services or Instruments that are not suitable for you.

When Acuvest determines, on the basis of the information received, that the product or service contemplated is not suitable for you, Acuvest will warn you of this fact.

# Statement of Suitability

When providing investment advice to you, the Firm will, before a transaction is conducted, provide you with a written Statement of Suitability (“Statement”) specifying how the recommendation provided is suitable for you, including how it meets your objectives and personal circumstances with reference to the investment term required, your knowledge and experience and your attitude to risk and capacity for loss, your preferences in relation to ESG “sustainability” considerations, and your financial situation. The Firm will sign and date the Statement on the day on which it is completed and will provide you with a copy in a durable medium. A copy of the Statement will be retained by the Firm.

We will include information on whether the recommended services or Instruments are likely to require you to seek a periodic review of your arrangements, including the following:

Frequency and extent of the periodic suitability assessment and where relevant, the conditions that trigger that assessment,

The extent to which information previously collected will be subject to reassessment, and

The way in which an updated recommendation will be communicated to you.

Where a periodic suitability assessment is provided, the Firm will review the suitability of the recommendations given at least annually. The frequency of this assessment will be increased depending on your risk profile and the type of Instruments recommended.

# Investment Performance and Risk Warnings

We provide you with investment advice in good faith based on information that is available to us at the relevant time. We do not give assurances that the investments we recommend will be profitable or perform as expected and you should be aware that the value of investments may fall as well as rise for numerous reasons including market conditions existing at the time. Please note that your capital may be at risk and that you may not receive back the amount of your original investment.

# Information on Fees and Associated Charges

Professional fees for our services will be agreed in advance with our clients.

Professional fees and expenses will be subject to the addition of VAT, where applicable, at the appropriate rate. Travelling, subsistence, accommodation and any other expenses necessarily incurred while engaged on your business will be charged at cost.

Fees are payable on presentation of our invoice. In the event of non-payment of any bill we retain the right to suspend work until payment is received and ultimately, to pursue any legal course of action as may be required.

If during the course of our work the need for additional services (not contemplated by the original proposal) is identified, agreement as to the scope of any additional work and related charges will be obtained before any expenditure is incurred.

A copy of our current schedule of fees and charges is available on request from your advisor. Fees and charges may change from time to time, and notification of any rate changes will be notified to you directly, according to our agreed method of communication with you.

# Information regarding Inducements

Where we provide independent investment advice, we are prohibited under the MiFID II Regulations from accepting and retaining fees, commissions or any monetary or non- monetary benefits paid or provided by any third parties or a person acting on behalf of a third party in relation to the provision of the service to you (including research provided on the basis that it constitutes a prohibited inducement under the MiFID II Regime), other than minor non-monetary benefits that comply with the MiFID II Regulations. Such minor non-monetary benefits are those that are capable of enhancing the quality of the service provided to you and are of a scale and nature such that they could not be judged to impair compliance with our duty to act in your best interests and are clearly disclosed.

We are obliged to return to our clients any fees, commissions or any monetary benefits paid or provided by any third party or a person acting on behalf of a third party in relation to the service provided to the client as soon as reasonably possible after receipt. We will inform you in relation to any fees, commissions or any monetary benefits transferred to Acuvest. All fees, commissions or monetary benefits received from third parties in relation to the provision of investment advice will be transferred in full to you in accordance with protocols agreed between both parties.

# Product Governance

The MiFID II Regulations impose obligations on firms that distribute financial instruments on behalf of investment firms who manufacture/issue the financial instruments. Under the MiFID II Regulations, distributors, such as Acuvest, must set a target market for the services provided to ensure that sales and distribution are focused towards the intended market.

We will take all reasonable steps to ensure that we obtain adequate and reliable information from firms who devise or create financial instruments, including when recommending financial instruments devised or otherwise created by entities that are not subject to the MiFID II Regulations, so as to ensure that products will be distributed in accordance with the needs, characteristics and objectives of the identified target market.

1. Insurance Distribution Services

Paragraphs 11 to 22 inclusive address our provision of insurance intermediary services to you, which are set out in Appendix 1.

# Business Description – Our Insurance Intermediary Services

Acuvest provides individually tailored financial planning and advice in respect of life insurance products (“Insurance Products”) and insurance-based investment products (“IBIPs”) to its clients on a fair analysis of the market basis.

We provide advice on and deal with various types of Insurance Products, which are: savings and investment; pensions; approved retirement funds, annuities, personal retirement savings account and permanent health insurance.

When providing our insurance intermediary services to you we will represent your interests, as our customer, and not the interests of an insurance undertaking.

We are not under a contractual obligation to conduct insurance distribution business exclusively with one or more insurance undertakings.

# Shareholdings

We do not hold a direct or indirect holding of any of the voting rights or of the capital of any insurance undertaking.

# Provision of Advice

To the extent that Acuvest provides you with advice, please note that this advice is provided to you on a fair and personal analysis of the market and is based on analysis of a sufficiently large number of Insurance Products**[[1]](#footnote-1)** available on the market to enable Acuvest to make a recommendation, in accordance with professional criteria, as to which Insurance Product adequately meets the customer’s needs.

# Insurance-based Investment Products (IBIPs)

Acuvest provides independent advice to you on IBIPs. This means that Acuvest will return to customers or offset against fees to be paid by the customer, any fees, commissions or non-monetary benefits paid or provided by any third party or person acting on behalf of a third party in relation to the services provided to that customer as soon as possible after receipt.

Acuvest is remunerated by the fees paid by you, our customer for the advice we provide you on IBIPs.

# IBIPs – Information to Customers

Prior to the conclusion of contract in respect of IBIPs with a customer, we will provide you in good time with the following information, as is relevant:

* When advice is provided, whether the Firm will provide the customer with a periodic assessment of the suitability of the IBIP recommended to you;
* The proposed investment strategies, appropriate guidance on, and warnings of, the risks associated with the IBIP or in respect of the particular investment strategies proposed; and
* All costs and related charges of the IBIP recommended or marketed to the customer.

The Firm will provide the customer with the information in relation to costs (excluding costs/charges caused by underlying market risk) in aggregated form, in order to allow the customer to understand the overall costs as well as the cumulative effect on return of the investment. Such information will be provided to the customer at least annually during the life of the investment.

# Customer Profile and Suitability of Insurance Product

In good time before the conclusion of a contract with a customer in relation to an Insurance Product, the Firm will provide the customer with objective information about the Insurance Product in a form which will allow the customer to make an informed decision, taking into the account the complexity of the Insurance Product and the type of customer involved.

The Firm will only propose a contract that is consistent with the customer’s insurance demands and needs.

Where the Firm is providing advice to a customer prior to the conclusion of a contract relating to the provision of a specific Insurance Product, the Firm will provide the customer with a recommendation that explains why a particular Insurance Product would best meet the customer’s demands and needs taking into account the complexity of the Insurance Product and the type of customer.

We are required to obtain and record sufficient information from the customer as is necessary to ensure that we can provide the customer with suitable advice and to act in the customer’s best interests. When we are providing advice in relation to an IBIP, the information we may require includes details of the customer’s investment objectives including their risk tolerance, information on their financial resources including their ability to bear losses, their preferences in relation to ESG “sustainability” considerations, and their investment experience and knowledge in the investment field in so far as it is relevant to the advice offered.

We have a duty to take reasonable care when determining the suitability of the Insurance Product and in advising customers generally based on information that has been disclosed to us by them. We will consider the suitability of the Insurance Products recommended by us based on the information provided to us.

# Statement of Charges

Professional fees for our services will be agreed in advance with our customers.

Professional fees and expenses will be subject to the addition of VAT, where applicable, at the appropriate rate. Travelling, subsistence, accommodation and any other expenses necessarily incurred while engaged on your business will be charged at cost.

We earn our remuneration on the basis of professional fees the basis of which is agreed with our customers in advance.

The Firm will inform you of the amount of any fee to be paid directly by you or, where that is not possible, the method for calculating the fee.

We reserve the right to charge additional fees if the time required is significantly more than we would normally expect but will notify you and agree this with you in advance.

# IBIP Suitability Statement

Prior to the conclusion of a contract for an IBIP, the Firm when providing advice will provide the customer with a written statement of suitability (the “**IBIP Suitability Statement**”) specifying the advice given and how that advice meets the preferences, objectives and other characteristics of the customer. The Firm will sign and date that IBIP Suitability Statement on the day on which it is completed and will provide the customer with a copy in a durable medium. A copy of the IBIP Suitability Statement will be retained by the Firm.

# Suitability Assessment

It is in your best interests that you review, on a regular basis, the Insurance Products which we have arranged for you. As your circumstances change, your needs will change. You must advise us of those changes and request a review of the relevant policy so that we can ensure that you are provided with up to date advice and Insurance Products best suited to your needs. Failure to contact us in relation to changes in your circumstances or failure to request a review, may result in you having insufficient insurance cover and/or inappropriate investments.

Any failure to disclose material information may invalidate your claim and render your policy void.

Where a periodic suitability assessment is provided, the Firm will provide a periodic report that contains an updated statement of how an IBIP meets the customer’s preferences, objectives and other characteristics of the customer.

# Customer Profile and Appropriateness of the IBIP

When the Firm is not providing any advice to you but is involved in the sale of an IBIP, the Firm will ask the customer to provide information regarding the customer’s knowledge and experience in the investment field relevant to the specific type of IBIP offered or demanded so that the Firm will be able, to assess whether the IBIP is appropriate for the customer.

If the customer fails to provide this information, or if the customer lacks knowledge and experience in respect of the relevant IBIP or on the basis of the information provided, the Firm is of the view that the IBIP is not appropriate, then the Firm will issue a warning stating that the IBIP is not appropriate for the customer or the potential customer.

# Product Governance

The Insurance Distribution Regulations impose obligations on firms that distribute Insurance Products on behalf of firms who manufacture/issue the Insurance Products. Under the Insurance Distribution Regulations, distributors such as Acuvest must ensure that they obtain the relevant information on the Insurance Product in order to identify the target market of the Insurance Product and the characteristics of the identified market for each Insurance Product.

# Return Premiums

In accordance with the Consumer Protection Code (CPC) any premium rebate due to you will be paid in full and any charges owed relative to this, will not be deducted from the rebate unless you have previously consented in writing to the charge.

Where a premium rebate is due to a customer and the value of the rebate is €10 or less we will offer the customer the choice of:

1. Receiving the premium rebate;
2. Receiving a deduction from a renewal premium or other premium currently due to the Firm; or
3. The Firm making a donation on the customer’s behalf to a registered charity.

We will seek the customer’s consent on each occasion should this arise.

# Default on Payments by Clients

The occurrence of any of the following events will be deemed to be an event of default under this ToB:

* Failure by the customer to make a payment of fees due to the Firm under this ToB;
* Failure by the customer to perform any of your obligations under this ToB; or
* Any other event of default or termination under this ToB.

It is the Firm’s policy to pursue such events of default directly with the customer in the first instance in order to achieve a satisfactory resolution.

We reserve the right to add interest to your account for any overdue fees, at 2% above the prevailing base rate.

The Firm will, if necessary, exercise its legal rights to receive any payments due to it from the customer for services provided. In this instance, the customer will be responsible for payment of all fines, penalties and costs including legal, and other professional and advisory costs incurred by the Firm arising from such actions.

Please note that product producers may withdraw benefits or cover in the event of default on payments due to them under policies of insurance or other Insurance Products arranged for the customer. We refer the customer to policy documents or product terms for the details of such provisions.

# Investor Compensation Scheme

The Investor Compensation Company DAC (“ICC”) is an independent body set up under the Investor Compensation Act, 1998 (as amended) (the “Act”). The ICC is Ireland’s statutory ‘fund of last resort’ for customers of authorised investment firms (includes authorised MiFID firms and authorised Insurance Intermediaries). Acuvest is a member of this compensation scheme.

The principal objectives of the ICC are:

* To operate a financially sound scheme so as to provide statutory levels of compensation to eligible investors of failed investment firms;
* To set up and maintain funds out of which compensation and costs can be paid, under the Act;
* To set up and maintain a structure that can be used to pay compensation to investors of failed investment firms, under the Act; and
* To make sure compensation is paid without unnecessary delay.

A right to compensation would only arise where money or Instruments held on your behalf cannot be returned either for the time being or for the foreseeable future and where the client falls within the definition of ‘eligible investor’ as contained in the Act. Where an entitlement to compensation is established under the Act, the ICC can pay compensation up to 90% of the relevant claimant’s loss. However, the most the ICC can pay is €20,000.

Details of the Investor Compensation Scheme can be found on the ICC website at www.investorcompensation.ie.

In addition, Acuvest holds Professional Indemnity insurance as required under the Insurance Distribution Regulations.

# Data Protection

In accordance with the General Data Protection Regulation (697/2016/EU) (the “GDPR”) and applicable Irish data protection legislation (currently the Irish Data Protection Acts 1988 to 2018) (collectively, “Data Protection Legislation”) the Firm being a data controller, must provide you with information on how the personal data that you provide to the Firm will be processed by the Firm and any duly authorised service providers appointed by the Firm.

The Firm, as a data controller, and its duly authorised service providers, as data processors, may process your personal information for the following purposes:

Purposes of Processing and Legal basis for processing

The personal data collected from you or provided by you to the Firm will be held, disclosed and processed by the Firm and its duly authorised service providers for the purposes of:

**Performance of the contract**

1. delivery of the investment advisory and insurance distribution services to you.
2. arranging an insurance contract for you.

**Compliance with a legal obligation under the CPC**

1. complying with any applicable legal, tax or regulatory obligations imposed on the Firm including legal obligations under company law, tax law and anti-money laundering/counter terrorist financing legislation, the MiFID II Regulations, the Insurance Distributions Regulations and Central Bank requirements including those under the CPC.

**Legitimate interests**

1. pursuing the legitimate interests of the Firm and its duly authorised service providers including:
2. carrying out statistical analysis and market research; and
3. disclosures to third parties such as auditors, regulatory, tax authorities and technology providers.

**Please note that where personal data is processed for purposes of legitimate interests, you have a right to object to such processing and the Firm will no longer process the personal data unless the Firm can demonstrate compelling legitimate grounds for the processing which override your interests, rights and freedoms or for the establishment, exercise or defence of legal claims.**

**Consent**

1. Your consent is not required to process your personal data for the purposes referenced above. However, in order to process your personal data for the purposes of direct marketing, the Firm seeks your consent. Please see the section below which deals exclusively with consent for that purpose.

**Consent to Direct Marketing**

The Firm seeks your consent in order to send you information about other investment services or insurance intermediary services by letter, by telephone, by email or by other reasonable means of communication (please find the relevant consent in clause 43 of this ToB). Please note that you have a right **not** to receive such information.

You have a right to withdraw this consent at any time. However, your withdrawal of consent will not affect the lawfulness of processing based on consent before its withdrawal. You can withdraw your consent by contacting the Firm at the address below:

67 Merrion Square South, Dublin 2, D02 CK11.

Please note that you have a right to object to the processing of your personal data by the Firm for direct marketing purposes.

The performance of a contract is NOT conditional on your consent to direct marketing.

You have a right to object to the Firm’s processing of your data for direct marketing purposes by written request to the Firm free of charge.

**Profiling and Screening**

The Firm engages in Politically Exposed Person (“**PEP**”) screening and financial sanctions screening programs defined by the European Union (“**EU**”) and the United Nations (“**UN**”) for the purposes of complying with anti-money laundering and counter terrorist financing legislation and with EU and UN applicable sanctions regimes.

**Disclosures to Third Parties**

Personal data relating to you which is collected from you or provided by you or on your behalf may be handled by service providers utilised by the Firm. These service providers will be obliged to adhere to the Data Protection Legislation.

In arranging an insurance contract the Firm will be required to provide your personal data to the relevant insurance company underwriting the insurance contract. Where such personal data includes sensitive personal data such as data concerning your health then we will require your consent in order to disclose such personal data to the insurance company. In order to provide such consent please refer to section 43 Client Acknowledgement and Consent.

Where we transfer your personal data including sensitive personal data to the insurance company then the insurance company will be a data controller in its own right and will be required to handle your personal data in accordance with the Data Protection Legislation.

The Firm may disclose your personal data to other third parties where required by law or for legitimate business interests. This may include disclosure to third parties such as auditors and the Central Bank, regulatory bodies, taxation authorities and technology providers.

**Transfers Abroad**

Personal data collected from you or provided by you may be transferred outside of Ireland including to companies situated in countries outside of the European Economic Area (“**EEA**”) which may not have the same data protection laws as in Ireland. Currently personal data is not transferred outside of the EEA by the Firm, however, in the event that this status changes and the Firm seeks to transfer personal data belonging to you outside of the EEA, the Firm will notify you and will inform you as to which countries the personal data will be transferred to.

Where data transfers outside of the EEA take place, the Firm has taken the necessary steps to ensure that appropriate safeguards have been put in place to protect the privacy and integrity of such personal data. Please contact the Compliance Officer should you wish to obtain information concerning such safeguards.

**Data Retention Period**

The Firm will retain all documentation provided by you in relation to the provision of MiFID investment advice or for a the purposes of arranging an insurance contract for such period of time as may be required by Irish legal and regulatory requirements, but not for less than six years after the period of your investment has ended or the date on which you had your last transaction with us.

**Your data protection rights**

Please note that you have the following rights under the GDPR. In each case, the exercise of these rights is subject to the provisions of the GDPR:

1. You have a right of access to and the right to amend and rectify your personal data;
2. You have the right to have any incomplete personal data completed;
3. You have a right to be forgotten (right of erasure of personal data);
4. You have a right to restrict processing;
5. You have a right to data portability; and
6. You also have the right to object to processing where personal data is being processed for marketing purposes and also where the Firm is processing personal data for legitimate interests.

Where you wish to exercise any of your data protection rights, please contact us via the contact details provided below.

**Failure to provide personal data**

The provision by you of personal data, as outlined in the section titled “Purposes of processing and legal basis for processing” is required for us to deliver investment advice to you or arrange an insurance contract for you and so that we can comply with the legal, regulatory and tax requirements referenced above. Where you fail to provide such personal data we may be required to discontinue our business relationship with you.

**Contact us**

If you have any questions about our use of your personal information, please contact the Firm’s Compliance Officer at 67 Merrion Square, Dublin 2, D02 CK11 (Tel: +353-1-634 4510).

# Confidential Information

The information that Acuvest holds about you is confidential and will not be used for any purpose other than in connection with the provision of services or as otherwise outlined in this ToB. Each party shall hold all confidential information of the other in strict confidence unless such information is already in the public domain. Save as may be required by law or applicable regulation, neither party shall disclose such information without the prior written consent of the other party.

When we communicate with you using electronic media, we have the appropriate arrangements in place to ensure the information received from you and any transmission of information to you by the Firm is secure.

All presentations, reports, documents, work deliverables and other advice given are for your exclusive use and must not be handed over or otherwise disclosed to any third party without our prior written consent save where you are legally obliged to do so. You agree to take all steps necessary to procure that they are not handed over or otherwise disclosed or used by any third party without Acuvest’s prior written consent.

# Records

The Firm is required to retain relevant records for six years from the date on which the Firm ceased to provide any services to you.

# Anti-Money Laundering (AML) and Counter Terrorist Financing (CTF)

The Criminal Justice (Money Laundering and Terrorist Financing) Act, 2010, as amended by Part 2 of the Criminal Justice Act 2013 and the Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2018 as amended by the Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2021 (the “**AML Act**”) requires that individuals and companies put certain procedures in place to combat money laundering. Under the terms of the AML Act, Acuvest is a designated person. The requirements applicable to a designated person include the development and maintenance of customer due diligence procedures, including identification procedures, record retention, internal and external reporting of suspicious transactions and education and training for staff.

Acuvest has implemented a detailed Anti-Money Laundering Policy in order to comply with its obligations under the AML Act. This policy details the means by which Acuvest will seek to establish and verify the identity of each of its clients and the time for which these records will be retained.

In complying with the AML Act, Acuvest will request from you such information and documentation as we deem necessary and to make searches where appropriate of relevant databases. Should you not provide satisfactory evidence of your identity we may not be able to proceed with the provision of services to you. We are also required to establish the source of funds and source of wealth.

We are obliged to report all knowledge of suspicious transactions, or that a criminal offence giving rise to any direct or indirect benefit from criminal conduct, has been committed by a client or a third party. If we have knowledge or suspicion, or have reasonable grounds to know or suspect, that such offences have been committed, we are required to make the report to the Financial Intelligence Unit and the Revenue Commissioners. Under the AML Act, we are specifically prohibited from discussing this with you.

# Duty to Clients

When we are providing the investment service of investment advice and/or any insurance distribution service to you we will act honestly, fairly and professionally in accordance with your best interests. We will ensure that the appropriate information is provided in good time to you in respect of the investment advice and/or any insurance distribution service provided by us to you. In addition, we will provide information on all costs and associated charges that are being or may be incurred by you in relation to the services being provided by us, or that are relevant to any decision under consideration, to the best of our knowledge.

# Limitation of Liability

Our work relies on the information and representations supplied to us by our clients. We shall not, save to the extent that the law requires otherwise, be held responsible or liable for any loss, damage, cost, expense or other consequence (together “**losses**”) whatsoever and howsoever caused, incurred, sustained or arising, if information material to our work is withheld or concealed from us or misrepresented to us, except and only to the extent any such losses have resulted from our knowing disregard of matters of which we have, or could reasonably be expected to have actual knowledge, or from fraud, bad faith or willful default on our part.

We will incur no liability in respect of any action taken or loss incurred or suffered as a result of us acting in good faith in reliance upon instructions from an individual purporting to be an authorised person.

Nothing in this ToB shall exclude or restrict any liability which Acuvest has to you under any applicable law/regulatory requirement or under the CPC or any duty to act with skill, care and diligence when providing investment advice or any insurance intermediary services to you.

# Indemnities

As further consideration for Acuvest’s provision of services set out in this letter you agree to indemnify and hold harmless Acuvest, its directors, and employees against all direct, indirect and consequential losses, damages, costs and expenses which Acuvest, its directors and employees, or any of them, may suffer arising from information material to our work being withheld or concealed from us, or misrepresented to us by you or an authorised person (“**a Claim**”). This indemnity will not apply to the extent that any such Claim results primarily from our knowing disregard of matters which we have actual knowledge, or our fraud, negligence, bad faith or willful default.

To receive the foregoing indemnity, Acuvest must notify you promptly that a claim has been made and must provide reasonable cooperation (at your expense) in defending or settling the claim. You will not be required to indemnify Acuvest under any settlement made without your consent. This section 31 shall survive termination of this agreement.

# Work Product

You shall own the deliverables of the services which are the subject of these ToB. We may retain copies for our quality assurance purposes. Subject as provided herein, each of us shall be free to use the concepts, techniques and know-how used and developed in the provision of the services that are the subject of these ToB. In any event, we shall continue to be free to perform similar services for our other clients using our general knowledge, skills and experience.

You acknowledge that in the performance of the services we may use products, materials or methodologies proprietary to us or a third party or we may produce proprietary materials or methodologies that are not part of the deliverables. You agree that you will not have or obtain rights in such proprietary products, materials and methodologies except pursuant to a separate written agreement on terms to be agreed, and you agree to maintain the confidentiality of such items.

# Performance

We undertake that we will exercise due care in the performance of our work in accordance with applicable professional standards. However, we do not warrant, nor will we be responsible for, the performance of any third-party products. We do agree, however, to assign to you any assignable warranties we may receive from any such third party.

All surveys, forecasts, projections and recommendations in any report, presentation or letter are made in good faith and on the basis of the information supplied to us at the time. However, we do not guarantee and we take no responsibility for their achievement or continuing applicability, because the actual outturn will depend on future events and circumstances, including your actions.

Please note that the responsibility on whether or not to implement a recommendation rests solely with you, the client. Acuvest will provide assistance in completing the relevant documentation and dealing with any product producers as is needed. In consequence, no statement made by or on behalf of Acuvest is, nor is it to be deemed to be, in any circumstances a representation, undertaking, warranty or contractual condition.

The representations, warranties, terms and conditions set out in this letter are the parties’ only representations, warranties, terms and conditions relating to the services and Acuvest’s provision of the services and deliverables are made expressly in place of and to the exclusion (to the fullest extent permitted by law) of all other representations, warranties, terms and conditions, express or implied, by statute or otherwise.

# Complaints Handling

We aim to provide you with the best possible service and hope that it is satisfactory at all times. If, however, at any time you are not happy with the service, for whatever reason, please let us know by contacting our Complaints Management Officer at 01-634-4510. Submission of a complaint is free of charge. We undertake to look into any complaint promptly and to do what we can to resolve the position. The Firm will provide a reply to all complaints received from their customers.

Where you remain dissatisfied with the outcome of our efforts to resolve your complaint you will be notified of your rights to refer the dispute to the Financial Services and Pensions Ombudsman (the “**FSPO**”).

Contact details for the FSPO are: Lincoln House, Lincoln Place, Dublin 2, D02 VH29. Phone: +353-1-567 7000.

If you are still not satisfied you may, of course, take up the matter with the Central Bank (New Wapping Street, North Wall Quay, Dublin 1 Telephone +353-1-224 6000).

We have detailed procedures in relation to handling complaints and this information can be provided to you on request, or when acknowledging a complaint.

# Conflicts of Interest

The Firm operates a Conflicts of Interest Policy which encompasses effective organisational and administrative arrangements to take all reasonable steps to identify, monitor and manage conflicts of interest that arise in providing investment services and or insurance intermediary services, so as to ensure all appropriate steps are taken to ensure you are treated fairly. At your request further details of the Conflicts of Interest Policy will be provided to you in a durable medium.

A potential conflict of interest may arise when providing a service which may benefit us (or another client for whom we are acting) to your detriment. In such instances our conflicts of interest procedures ensure that appropriate actions are taken so as to treat all clients fairly.

In considering whether a potential conflict of interest may arise, the test applied is whether the perception of a reasonable observer would be that the objectivity of the Firm is likely to be impaired. Safeguards in these instances will include disclosure of the circumstances of the conflict, advising the client in writing that they may wish to seek alternative independent advice and obtaining the informed consent of the client to act.

In addition; in making any recommendation for the use of the services of a third party, any relevant connection between that third party and the Firm will be disclosed to the client in advance. Where effective safeguards are not available, the Firm would refuse or discontinue the particular assignment.

Where a conflict of interest threat arises between the interests of two or more clients the safeguards utilised include, but are not limited to, the use of different personnel for different engagements and regular reviews by a senior director, the compliance officer or the investment committee chairman, depending on who is available and not personally involved with either client.

Where the acceptance or continuance of an engagement would, even with the safeguards in place, prejudice the interests of any existing or potential client, the engagement would not be accepted or continued, or one of the assignments would be discontinued.

Where constraints of confidentiality preclude adequate disclosure of a potential conflict of interest the Firm would disengage from the relevant assignment.

The Firm will ensure that its remuneration arrangements with its employees who are engaged in providing investment advice and/or in the provision of insurance intermediary services are not structured in such a way as to impair the Firm’s obligations to act in its clients’ best interests and to satisfy the suitability requirement.

The conflict of interest procedures, which are designed to ensure the required level of independence, are the subject of ongoing monitoring and review processes.

Written, email and oral instructions will only be accepted from you, and the person(s) authorised by you as instructed to us in writing. Unless otherwise notified, we will assume that written instructions signed by any of the authorised persons to be valid instructions and that we will be entitled to act upon them.

Written instructions must be addressed to our office at 67 Merrion Square South, Dublin 2, D02 CK11. We will also act pursuant to telephone instructions where we reasonably believe these to be given by you or any of the authorised persons.

Where written/email instructions are subsequently received which differ from the oral/telephone instructions previously given, we will carry out the written/email instructions as and from the date of their receipt, and we will have no liability for any losses, actions or other liabilities arising as a result of our compliance with the prior oral/telephone instructions. Our records with respect to the content of any oral/telephone instructions will be binding and conclusive.

Information and various news updates are sent to our clients from time to time. These may include market updates and other investment/pensions/insurance related articles which may be of interest to our clients. You will need to opt-in in order to receive these items. Should you wish to opt-out you may do so at any time by letter, email, telephone or by clicking on the ‘Unsubscribe’ icon included in these communications.

# Client Assets

Acuvest is not authorised to hold client funds or client financial instruments.

# Instructions & Language

Our dealings with you will be conducted in English.

We will only accept instructions from you in relation to this appointment, unless you instruct us in writing to the contrary. We are authorised to rely and act on such instructions or communication and we are not required to acknowledge such instructions.

# Tax and Legal Matters

As part of our engagement with you, opinions or views may be expressed from time to time related to taxation and/or legal matters. Such opinions or views should not be construed as advice or as being a part of our financial advice/planning service. Acuvest is not a tax or legal adviser and strongly advises you to obtain such tax and legal advice, as you consider necessary, from appropriate sources.

# Force Majeure

Neither of us shall be liable for any delays or failures to perform due to causes beyond our control.

# Entire Agreement

This ToB supersede all previous discussions and communications relating to the subject matter of this engagement.

# Governing Law

This ToB and the provisions hereof shall be governed by and construed in accordance with the laws of Ireland.

The courts of Ireland shall have exclusive jurisdiction to hear and determine any suit, action or proceedings that may arise out of or in connection with this ToB, and for such purposes each party hereby irrevocably submits to the jurisdiction of such courts.

# Termination

You have the right to terminate this agreement at any time by giving us 30 days’ notice in writing. We have the right to terminate this agreement at any time by giving you at least 30 days’ notice in writing.

Termination will not affect our rights to fees, as set out in this letter, or to any other accrued rights, including any charges which we may incur in arranging the transfer of your investment(s) to you or to another party, which we may have upon termination. Our right to fees shall be proportionate to the work completed up to the point of termination.

In the event of death or incapacity of a client, this ToB as entered into by the client with the Firm will not terminate. The appointed representatives of the client shall be subject to these ToB.

The following procedures will be followed:

* In the case of death, confirmed by receipt of a certified copy of your death certificate, we will only accept further instructions on your account from your appointed representative upon receipt of a certified copy of the grant of probate or letters of administration.
* In the case of incapacity, we will not accept any further instructions on your account until we have received written notice confirming that a validly appointed representative has been appointed on your behalf to handle your affairs, or written formal notification that you are no longer suffering from such incapacity.

# Client Acknowledgement and Consent

I/we confirm that I/we have read, understand and accept this ToB.

I/we confirm my/our agreement to Acuvest acting as my/our Financial Adviser.

I/we authorise Acuvest to hold my/our personal data on file, to contact me/us in writing or by email in respect of financial services and insurance matters, and to obtain or provide any relevant information in respect of my/our existing policies or investments directly from or to data processors, product or investment providers where I/we maintain products, policies or holdings.

By signing this Declaration I/we give my/our explicit consent to any information about me/us, including where relevant, any sensitive personal data, being processed by Acuvest and any service providers appointed and utilised by Acuvest for the purposes of advising me/us appropriately as to the products/services that will suit my/our needs based on the information I/we have provided to Acuvest. This may include information about me/us being used where appropriate for underwriting, administration, advisory, customer service, business analysis and anti- money laundering and countering the financing of terrorism.

By signing this Declaration I/we give my/our explicit consent to any information about me/us, including where relevant, any sensitive personal data, being transferred by Acuvest to the relevant insurance company for the purposes of arranging an insurance contract with that insurance company.

I/we consent to Acuvest contacting me/us regarding any services or Instruments which Acuvest considers may be of interest to me/us. Please tick this box if you wish your data to be used in this manner.

I/we consent to Acuvest contacting me/us regarding market updates and other investment/pensions related items/articles which they consider may be of interest to me/us. Please tick this box if you wish your data to be used in this manner.

|  |
| --- |
| Print Name: |
| **Signed:** |
| **Date:** |

**Acuvest Limited**

67 Merrion Square South

Dublin 2

D02 CK11

Ireland

**W:** www.acuvest.ie

**E:** info@acuvest.ie

**T:** +353 1 634 4510

1. Please note that any reference to an Insurance Product in the ToB will also encapsulate an IBIP. [↑](#footnote-ref-1)