

# Advisor Agreement

This advisor agreement sets out the relationship between you, as an advisor using the Folio Institutional web site, and FOLIOfn Investments, Inc. It details our obligations to you and your obligations to us. It covers how we agree to address the most important issues that may arise between us.

By signing or typing your name to this agreement, you agree to this agreement as amended by us from time to time. By using our site, you agree to any online agreements that we post on our site, including any changes we make to these agreements. You agree that these agreements are the legal equivalent of signed, written contracts, and equally binding.

When we use "you" and "your" in this agreement, we are referring to you as an investment advisor, which includes corporations, partnerships, investment clubs, and other entities. "We", "us" and "our" refer to FOLIOfn Investments, Inc.. Your "client" refers to a person who has authorized you to manage and control financial assets. The term "authorized person" refers to any person who is authorized by you to act on your behalf.

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## Certifications You Make in this Agreement

When you agree to this agreement, you certify that

- You are authorized by your client to transact on your client's behalf with us.
- You are authorized to execute, deliver, and perform this agreement.
- You either trading authority over your client's assets held with us or your will seek all necessary authorizations prior to transacting on your client's behalf.
- If you have the right to receive information on proxies and the discretion to vote proxies with respect to the securities held in your client's account, you understand and agree that your client also retains full discretion with respect to such matters and will receive information on proxies unless the procedures in the section entitled Proxy Voting and Certain Voluntary Corporate Actions below are satisfied to the contrary.
- You are an investment advisor registered and will maintain registration (or are appropriately exempt from registration) under the Advisers Act and under each of the state securities laws where your current activities require you to be registered. You will comply with the Advisor's Act and any state securities laws and rules that are applicable to you.
- All amendments to Form ADV that are required by the Advisers Act have been made and filed with the Securities and Exchange Commission and each applicable state securities law administrator.
- You have an understanding of your client's financial status, goals, and objectives.
- All information that you have provided to us with respect to yourself and your client in the sign-up process, the institutional agreement and the membership agreement is true, complete, and correct.
- You have read and understood the terms and conditions of the customer agreement that your client will enter into in the sign-up process. When the customer agreement is amended, you will notify your client of such changes and inform FOLIOfn within a reasonable time thereafter of any customer objections.

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## Proxy Voting and Certain Voluntary Corporate Actions

We understand that voting on various matters now presented for shareholder action, such as views on various social issues and even executive compensation levels, can be a personal decision and preference for your client. Our website provides for electronic delivery to your client of all relevant proxy voting information and allows your client to vote proxies easily (and also respond to certain voluntary corporate actions). Consequently, many advisors do not accept authority and responsibility for proxy voting and that authority is retained by the client. Other advisors do accept the authority and responsibility to vote. Our website allows your client to grant you or another third party (such as a proxy advisory firm), the ability to vote proxies and respond to certain voluntary corporate actions, in addition to your client, but your client will also retain this right and receive delivery of applicable documents unless this right is specifically disclaimed by your client. Your client can disclaim this right by: i) making a different arrangement with you or another person (such as a proxy advisory firm) to vote on your client's behalf, ii) notifying us of that different arrangement in writing and stating that your client disclaims the right to also receive documents and be able to vote or respond to such actions, and iii) instructs us to deliver the applicable documents that would otherwise be provided to your client to be provided instead exclusively to you or such other person.

- Please note, this right of your client's to vote and/or to decide voluntary corporate actions is retained by your client even if you or another has also been authorized by your client to vote proxies and/or respond to voluntary corporate actions on your client's behalf through our services and even though we are also providing you or such other person notice of such actions and access to vote or respond to such voluntary corporate actions (unless your client specifically disclaims such right). Consequently, unless your client specifically disclaims such right, we will deliver proxy and voluntary corporate action information both to your client and to you or the other person your client designates. In this manner, your client remains aware of all corporate actions and can vote, or rescind any authority to vote that your client may have also granted to you or another, on any particular item or generally. If there is a particular matter on which your client wishes to ensure that only your client can vote where your client has also provided voting authority to you or another, please have your client contact

our customer service representatives.

- Additionally, if your client has established an alternative means for your client and/or you or another person to vote proxies or decide corporate actions outside the scope of this agreement and our services and your client no longer wishes to receive any related proxy or corporate action documents, please have your client notify us in writing so that we may discontinue providing delivery of such documents to your client.

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## **We Do Not Give Investment, Tax, or Legal Advice**

You understand that we do not furnish any advice or recommendations about whether a security or investment is appropriate or suitable for your client. The decision to buy, sell, or hold any investment for your client rests solely with you or, if you allow your client to play a role in such decisions, your client.

By making information available to you on our Web site, we are not recommending or advising you to invest client assets in any particular Folio, security, or to use any investment strategy. Information on our Web site is not personalized to fit your or your client's needs. It is not tailored to reflect your client's financial circumstances or investment objectives, so the securities or investment strategies discussed on our site might not be suitable for your client.

We do not review your client's financial situation or tolerance for risk. Although we may provide tools that assist you in assessing your client's tolerance for risk, we do not determine if the tools we provide to select Folios or investments will result in suitable or profitable investments for your client.

All investments entail risks, and you, the advisor, are responsible for determining whether your client can afford the risks of using our tools. While we provide you with tools and ways to help you manage your client's investments and taxes, we do not give you investment, tax, or legal advice. If you wish to have such advice, you will need to consult other investment, tax, or legal advisors. You agree that we do not provide such advice, and that you (and, to the extent that you permit your client to play a role in such decisions, your client) make all decisions about investing and trading in your client's account.

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## **Suitability of Advice**

You will obtain sufficient information about your client's individual needs and circumstances upon which to determine the suitability of investments for your client. You will regularly contact your client to determine whether there has been a change in your client's individual needs and circumstances that might affect investment objectives and strategies for managing your client's account.

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## **Information Updates**

Advisor agrees to regularly inquire as to any changes in the information or instructions regarding your client's account and notify us promptly of any such changes.

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## **Customer Support**

You are solely responsible for responding to your client's questions and concerns. You agree to provide your client telephone access during normal business hours to qualified customer support personnel knowledgeable about your client and your client's accounts. If you or your client has questions or concerns regarding the services provided by us, you may call us at the advisor-support phone number we will provide to you. Our customer support personnel will refer client calls to you.

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## **Risks of Limiting Trades to Our Web site**

You should consult with your client in considering carefully if your client can afford or want to take on the risks of limiting your method of placing orders to our Web site. If you cannot access our Web site or our Web site is not functioning, you may not be able to place Folio orders through other means. You agree that we are not responsible for any losses that arise if orders cannot be placed on or through our Web site.

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## **Risks of Online Investing**

While we have put tremendous resources into building and testing our computer systems, computer glitches, slowdowns, and crashes will occur. We will also need to restrict access to some parts of our site or our entire site to perform routine maintenance. We will try to schedule our maintenance during the middle of the night.

While it is our intention that our Web site will be available seven days a week, you understand that we do not guarantee that you will always be able to access our Web site to place orders or that your orders will always be executed. Computer problems can arise on your end, our end, or anywhere in between: computer may break down; the telephone line between you and your Internet service provider may not work properly; your Internet service provider may go down; or our computers and the computers we link to may be unavailable due to unforeseen system outages.

When trading volumes soar on our nation's stock markets and many investors want to buy or sell at the same time, lines form and orders cannot be filled as quickly as you'd like.

You agree that we are not responsible for any losses or liabilities that may occur as a result of high trading volume, market volatility, computer, telecommunications, or Internet failures regardless of the cause.

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## **Extraordinary Events**

You agree that we are not liable for any losses caused directly or indirectly by extraordinary events or conditions beyond our control.

Such events include, but are not limited to, government actions, exchange or market rulings, and suspensions of trading.

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## Keep Your Account Information Secure

You understand that you are responsible for securing the confidentiality and use of your user name, password, and other methods of securing access to your account(s). You will be solely responsible for all transactions that are sent electronically using your user name, password, and other security measures. While we have taken reasonable measures to keep your information secure, we are not liable if your data and communications are intercepted.

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## Consent to Recording Your Telephone Conversations

You consent to having your conversations with us recorded.

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## No Guarantee on Accuracy of Third Party Information

You understand that we are not responsible for the accuracy or your use of any information we receive from third parties. While we use companies we believe to be reliable, we have not verified and do not make any warranty for information provided by third parties.

Our Web site contains links to other Web sites. We provide these links for the convenience of you and your clients, however, we have no control over these other sites. Therefore, we are in no way responsible for and in no way approve, endorse, or guarantee the accuracy, reliability, or completeness of any data or information provided in any linked Web page or Web site.

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## Closing Accounts

You, your client, or we may close your client's accounts with us at any time. This customer agreement will remain binding until FOLIO<sup>fn</sup> acknowledges in writing that it is no longer binding.

If you, or the client, close a client's membership and the associated accounts, we will restrict the accounts and stop charging the advisor and platform fees as applicable. If any residual balance remains in the accounts then we will charge the accounts the lesser of the then applicable Closed Account Residual Balance Fee or the remaining balance in the accounts until the balance reaches zero. This fee covers subsequent statements and other reporting for the account. Other fees may also apply to a closed account, for example the fee for requesting a check to be mailed for a residual balance. If you, or the client, remove assets from a client's accounts without contacting us to close the membership we will continue to bill the accounts the applicable fees until the balance reaches zero, at which time we will close the accounts. Residual balances may include interest and dividends received after you remove your assets.

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## Limitations on Watch Accounts

You may have up to ten Watch Folios and place up to 20 Folio trades a day in your Watch Account, in accordance with our then current policies. You can also delete a Watch Account Folio and create a new one.

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## High Volume Window Trade Fee

If an advisory firm averages across all of its customers more than 2,500 window trades per client per calendar month on the Folio Institutional platform, we will bill the advisor's house account a fee in the amount of \$0.25 per window trade above this threshold. This average does not include dividend reinvestment or cash sweep transactions.

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## Laws and Regulations Apply

All transactions executed through us are subject to the constitution, rules, regulations, customs, and methods of doing business at the exchange, market, or clearinghouse or agency that processes transactions. Various federal and state laws and regulations may apply to transactions in your account. These laws and regulations may place restrictions on your ability to freely trade some securities if you or your client owns "restricted" or "control" securities, or if an insider trading policy applies to you or your client. You agree to comply with all relevant legal requirements and only to effect transactions through us that are legally permissible.

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## Modifying this Agreement

We can amend this agreement and the terms and conditions of your use of our online services by notice to you. Your conduct of any business through our Web site after notice of such amendments will constitute your agreement to the amendments. If a provision of this agreement is or becomes inconsistent with any law or regulation, the provision in question will be amended to conform to the law or regulation, and all other provisions will remain binding.

The internal laws of the Commonwealth of Virginia, without regard to its choice of law provisions, shall govern this agreement and its enforcement.

This agreement shall cover all accounts opened by you. Its terms and conditions shall apply to your successors and anyone you assign it to, and to our successors and anyone we assign it to.

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## Indemnification

You and your representatives indemnify and hold us harmless, including our affiliates, directors, officers, employees, and agents under this agreement from and against all claims, actions, costs and liabilities, including attorneys' fees, arising from or related to:

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- any breach by you of any provision or representation of this agreement, the institutional agreement, the membership agreement and each customer agreement;
- the performance or non-performance, delivery or non-delivery of your services to clients;
- any dispute between you and any client that does not directly result from our performance of brokerage services as set forth in this agreement; and
- any inaccurate information supplied to us by you or your clients.

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## Termination

We reserves the right to immediately terminate this Agreement and to notify your clients of any of the following:

- any breach of this agreement, the institutional agreement, the membership agreement or the customer agreement by you or the client or any misrepresentation made by you or any client in the opening or maintaining of accounts;
- termination of your advisor registration;
- sanctions imposed by regulatory agencies;
- dissolution of your advisory business;
- unsecured client account debits; and
- unresolved conflicts of interest.

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## Arbitration

### Pre-dispute Arbitration Agreement

You agree that all controversies between us will be settled through arbitration as provided for by the Financial Industry Regulatory Authority

You understand the following:

1. Arbitration is final and binding on the parties.
2. The parties are waiving their right to seek remedies in court, including the right to jury trial.
3. Pre-arbitration discovery is generally more limited than and different from court proceedings.
4. The arbitrators' award is not required to include factual findings or legal reasoning, and any party's right to appeal or to seek modification of rulings by the arbitrators is strictly limited.
5. The panel of arbitrators will typically include a minority of arbitrators who were or are affiliated with the securities industry.

You understand that we must use arbitration to decide and settle all controversies arising between us about any issue related to your client's account or this agreement. Any judgment resulting from arbitration may be entered in any court of competent jurisdiction.

You cannot bring a putative or certified class action to arbitration. You cannot seek to enforce a pre-dispute arbitration agreement against

1. any person who has initiated a putative class action in court, or
2. a member of a putative class unless the person has opted out of the class with respect to all claims.

You can seek to enforce a pre-dispute arbitration agreement against those mentioned in items 1 and 2 in the immediate preceding paragraph when

- the class certification is denied, or
- the class is decertified, or
- the customer is excluded from the class by the court.

You will not have waived your rights to enforce an arbitration agreement by complying with this agreement concerning class actions.

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