

# Account Opening Agreement

## 1. General

In this Account Opening Agreement references to “we”, “us” and “our” are to GAX MD Sdn Bhd and “customer”, “client”, “you” and “your”, are to the person who opens an account with us.

Together, (a) this Account Opening Agreement; (b) Platform Agreement; (c) our Personal Data Protection Notice; and (d) the information you provide in your profile and portfolio on our website at [www.mytheo.my](http://www.mytheo.my) (“**Platform**”) form the entire agreement between you and us (“**Agreement**”), in respect of any services provided by us on the Platform (“**Services**”) and supersede all previous written or oral agreements.

Your use of the Services is subject to us:

- (a) receiving confirmation that the account which you open with us for the provision of the Services (“**Account**”) is complete; and
- (b) sending an acceptance notice confirming that you may use and access the Platform, the Account and the Services.

## 2. Services

The Services that we provide are in accordance with this Account Opening Agreement and are only available to Malaysian citizens. We may, at our sole discretion, accept non-Malaysian citizens (which are residents in Malaysia) who approach us as a potential client subject to applicable regulations and provided that we are able to verify the status, identity and other relevant information of such client. We will provide you with the following Services subject to the terms of this Account Opening Agreement:

- a) **Discretionary investment service.** We provide you with customized asset allocation solutions via a proprietary algorithm which provides a seamless end-to-end investment service from on-boarding to redemption with a high level of customer transparency across the entire investment process.
- b) **Risk assessment.** We use the answers you provide in the questionnaire and the algorithm then generates an optimal portfolio together with projections of asset growth. All portfolios are automatically monitored daily to compare actual portfolio exposures against each client’s target portfolio. This includes exposure to exchange trade funds (“**ETF**”) as well as exposure to uninvested cash. Based on this, the portfolio management system generates recommended

trades to rebalance the portfolios to the optimal position. In addition, all ETFs held are monitored regularly for liquidity risk, credit risk and deviation from underlying asset value.

- c) **Financial planning.** The portfolios include investments across a range of assets including equities in developed markets and emerging markets, bonds such as government bonds, corporate bonds and mortgages, as well as real assets such as commodities, metals, real estate and forestry.
- d) **Asset allocation.** You can choose to follow the asset allocation provided by the algorithm or you may also choose to adjust it up to 6 times per calendar year. The allocation achieves a diversified, global investment portfolio that is tailored to the needs of the investors.
- e) **Investment implementation.** All the portfolios are implemented via ETFs that track the underlying indices of the relevant markets. This ensures that the portfolios are liquid and transparently priced as well as providing a low-cost way to gain exposure to the underlying assets.
- f) **Account rebalancing and reporting.** We rebalance your portfolio periodically to ensure that it remains close to the optimal allocation. In addition, we will automatically update the optimal portfolio annually to reflect your age, the changes in your needs and changes in market conditions.

### 3. Your Information

- 3.1 You must be at least 18 to be a customer on the Platform.
- 3.2 You acknowledge that we are obliged to carry out "Know Your Client" procedures in accordance with our policies, applicable local or foreign laws, regulations, subsidiary legislation, and any other requirements issued by the regulatory authority including the Securities Commission of Malaysia ("**SC**") as may be amended from time to time ("**Applicable Laws**").
- 3.3 You acknowledge that prior to the opening of an Account for you or the provision of the Services to you or the performance of any investment for on your behalf ("**Transaction**"), all documents and information as we deem necessary to carry out such "Know Your Client" procedures are required to be submitted to us (through the Platform or such other method as we may notify you). In the event of any change in the information provided you are required to advise us of the same accordingly.

- 3.4 You acknowledge that where it is required for the purposes of complying with any Applicable Laws or where required by any order, direction, or request by any applicable court, government or regulatory authority you agree to provide any information or documents whatsoever upon request by us from time to time. You also acknowledge that we are entitled to provide the information which you have shared with us to all relevant authorities for the purposes of complying with all applicable disclosure or reporting obligations without limiting the generality of our rights under Clause 3.3. Without prejudice to any other representation and/or warranty on your part, you undertake that all information and documents provided by you are accurate, true, and complete.
- 3.5 When we exercise our rights in this clause, you consent to us using your personal data (as defined in the Personal Data Protection Act 2010) to carry out electronic searches on private and public databases in order to provide the Services to you. For more details on how we collect and use your personal data, including the rights in relation to your personal data, please refer to our Personal Data Protection Notice on the Platform ([www.mytheo.my](http://www.mytheo.my)).
- 3.6 In some cases, we may need to ask for additional information or documents from you. If this happens, we will send you a secure email and you agree to provide us with the information and documents we ask for within a reasonable period. You accept that if you do not do this, we may freeze the Account or take other action against you or with respect to the Account.

## 4. Authorisation

- 4.1 Notwithstanding anything contained in this Account Opening Agreement, you hereby fully authorise us to act on your behalf and with full authority to in your name perform on your behalf all such acts as may be required or necessary for the following purpose:
- a) carrying out any instructions conveyed to us by you or performing any Transactions for you;
  - b) discharging any of our obligations to you under this Account Opening Agreement; and/or
  - c) doing all such acts as may be necessary or desirable (in our sole discretion) to safeguard our rights under this Account Opening Agreement.

## 5. Communications

- 5.1 We may communicate with you at any time including, when appropriate, by telephone in order to deliver the Services under this Account Opening Agreement.
- 5.2 You can give us instructions and notifications about each of your investment account(s) ("**Portfolio**") through the Platform. If we do act on an instruction, we will do so as soon as reasonably practicable after we have received it.
- 5.3 We may act on any instruction or notification we believe in good faith is from you, without carrying out any further checks or investigations. We will not be liable for following an instruction or notification which is not genuine, or for investigating, not investigating, or not following any instruction or notification that we believe may not be genuine. We will not be liable for any error of transmission or misunderstanding, or for the fraud of any other party except in the case of our negligence, wilful default or fraud. We are not obliged to acknowledge receipt of your instructions.

## 6. Customer Categorisation

- 6.1 You may only open an Account with us as an individual.
- 6.2 If you are dealing as a consumer under the Consumer Protection Act 1999 ("**Act**") (consumer shall have the meaning prescribed to it by the Act), it means that you are entitled to the protection that must be provided to a consumer under the Act. Accordingly:
  - a) this Account Opening Agreement is only intended to exclude or limit the remedies and rights you may have under the Act to the maximum extent permitted by law; and
  - b) nothing in this Account Opening Agreement is intended to exclude or limit our liability to you for any loss or damage arising from the negligence on our part or breach of any express terms contained herein or implied by any applicable law, including the Act which cannot be excluded by law.

## 7. Acknowledgement

- 7.1 You hereby acknowledge and agree that we are entitled to conduct a review of your financial goals, investment knowledge and experience, financial situation, and any particular needs at any time and from time to time ("**Review**"). You hereby acknowledge that we shall be entitled to request for any information for the purpose of the Review.

- 7.2 You also acknowledge and agree that you:
- a) are responsible and liable for the veracity, accuracy, correctness, and completeness of all information provided by you; and
  - b) shall advise us of any changes to such information without any undue delay.
- 7.3 You acknowledge that any investment strategy proposed by us shall be solely based on information which you provide to us. Accordingly in the event that you do not provide any information requested by us, or if you provide us with information which is untrue, inaccurate or incomplete in any manner whatsoever, you shall be solely responsible for ensuring that the proposed investment plan is suitable for you. In the event of the foregoing you confirm that we are entitled to stop providing you with our Services.
- 7.4 In addition to the foregoing, you confirm and agree that we are entitled to rely and act at all times, on any and all information which you provide to us without the requirement to verify such information.
- 7.5 In the event that we are of the view in our sole discretion that you do not possess the relevant knowledge or experience, we shall be entitled to require you to take other steps as we may require before proceeding with opening an Account, performing Transactions or providing the Services including without limitation requiring you to complete a general investment online course of our choice.

## 8. Investment Proposal

- 8.1 Whilst we will recommend an investment strategy as part of this Account Opening Agreement, you have sole control and authority over your trading and investment decisions unless otherwise provided for. You shall be entitled to determine, in your sole discretion, whether to accept or reject any of our advice or opinion (including any investment strategy) which we propose.
- 8.2 In the event that you decide not to accept our proposal, you acknowledge that you are solely responsible for ensuring that your proposed investment strategy and any Investments entered into are suitable for you. For the avoidance of doubt while you may at any time opt to vary the investment strategy which we propose, we shall not be obliged to agree to provide the Services to you.

8.3 In the event that there are any changes in your specific objectives, financial situation, investment experience, knowledge and particular needs, general economic or market conditions, or any other factors which we consider to be relevant we shall be entitled to propose changes to the investment strategy agreed between you and us. You agree that in proposing such changes, we shall be entitled to rely and act on the information you have provided to us without confirming such information with you or further investigation.

## 9. Execution Venues and Counterparties

9.1 You acknowledge and agree that pursuant to the Investment Strategy agreed between you and us:

- a) we may recommend any securities, financial instruments or products ("**Investments**") to you or otherwise manage your Portfolio in accordance with the Investment Strategy;
- b) we may deal with your monies, securities, other financial instruments or product, and other property held with us or through us ("**Assets**") including selling such Assets or settling a sale order on your behalf;
- c) we may effect the Transactions on any market, exchange and execute counterparty and account opening documentation on your behalf, make decisions and otherwise act as we may consider appropriate;
- d) you authorise us to withdraw and invest monies in the Account in the Investments and effect the Transactions, as your agent and at your sole risk and account;
- e) you understand the additional risks of giving us discretionary powers to manage your Assets and Investments on your behalf;

provided always that the execution of the Transactions on your behalf are within the scope of the Investment Strategy.

9.2 You acknowledge and agree that we may pool the Transactions executed on your behalf of with those of other clients.

## 10. Fractional Investment

When making investments on your behalf, if the amount to be invested does not allow us to purchase a whole share, we will round down to the nearest number of whole shares. For the remaining funds, we will create fractional entitlements ensuring the Portfolio is always balanced and constructed in line with your chosen risk.

## 11. Minimum Investment

We require a minimum of RM500 as initial deposit while the subsequent deposit can be a minimum of RM100 or more. To keep the Account active at all times, you must maintain a sum equivalent to a minimum USD 25 in the Account. We reserve the right to change the minimum amount from time to time and will notify you of any such changes in writing.

## 12. Basis of Valuation

The valuation of your portfolio is based on the net asset value of the Account ("NAV") which is done daily based on the closing market price of each invested ETF and/or Funds.

## 13. Risk

13.1 You acknowledge and agree that you have the capacity to assume all consequences and risks of the Investments and that you have obtained independent tax and legal advice.

13.2 You acknowledge and agree that you are fully aware of the risk relating to and/or arising from any Transactions entered into. Without limiting the generality of the foregoing, you agree and acknowledge that:

- a) you may lose your capital by entering into the Transactions;
- b) any Investments outside Malaysia are subject to the laws and regulations of the applicable jurisdiction and there may be certain risks involved with investing in the said Investments, including without limitation costs specific to the applicable jurisdiction, differences in regulatory regimes and investor protection, exposure to foreign counterparty and correspondent broker risks, and exposure to various political, economic and social developments in the applicable jurisdiction;
- c) the Investment may be impacted where the Transaction is denominated or settled in a different currency from your local currency as a result of changes to foreign currency rates; and
- d) Your payments or receipts under a Transaction will be subject to fluctuation in price, currency exchange, interest rate or other volatility in that particular financial market or markets. You are advised to fully understand the impact of market movements to your Investments.

13.3 You acknowledge and agree that any advice provided by us will be based on information from sources believed to be accurate, however no representation or warranty, express or

implied is made by us as to the accuracy, completeness or suitability of such advice. On certain occasions we may have an interest in the subject of the report or recommendation which we provide to you. We may from time to time be a counterparty to any Investments entered into by you and/or may otherwise benefit from your Investments.

- 13.4 You acknowledge and agree that you are solely responsible for making your own independent investigation and appraisal of all Investments and your own independent verification of any advice, recommendations, view, opinion or information provided by us. You shall fully understand and familiarise yourself with all the terms and conditions of each Investment and the risks involved, taking into account your objectives, financial position, investment experience, knowledge and particular needs.
- 13.5 You acknowledge and agree that you have made all necessary enquiries and we have informed you of all material features of and risks involved in respect of the Investments including but not limited to information on:
- a) details of the providers of the Investments;
  - b) the suitability and objective of the Investments;
  - c) the key features and risks of the Investments;
  - d) your key rights with respect to the Investments;
  - e) the commitment required from you in respect of the Investments;
  - f) the pricing of the Investments;
  - g) the fees and charges to be borne by you in respect of the Investments;
  - h) the frequency of reports to be provided to you in respect of the Investments; and
  - i) any applicable responsibility statement and disclaimers.

## 14. Customer Monies

Your monies will be deposited into a trust account as specified by us which is an account kept separate from our own funds. You acknowledge that we can only accept monies from your bank accounts held in your name or your immediate family member's name(s) or business bank accounts where business is fully owned by you and your immediate family member(s). You agree that funds from any other third parties will be refunded to the originating payor, less any bank charges. You understand that any third party payment received there may be delayed due to time taken to process. You are required to provide proof of relationship, reason for the transfer, the indemnity form and supporting documents. Subject to Applicable Laws, if we are not satisfied that the said monies were transferred from your bank accounts or your immediate family member(s), we shall be entitled to refund such monies to you or to the originating payor.

The immediate family includes customer's spouse, children and parent.



- 14.1 You acknowledge that we may hold monies received from you in an omnibus customer trust account together with monies that we hold for other customers.
- 14.2 We shall only pay monies in the trust account belonging to you to bank accounts belonging to you. In the event that we are not satisfied that the monies will be paid to bank accounts belonging to you, we reserve the right to withhold such payments in our sole discretion.

## 15. Appointment of Custodian and Services

- 15.1 We will appoint a local custodian ("**Custodian**") to purchase the Investments through or by a nominee, agent or broker.
- 15.2 Without prejudice to any other provision in this Account Opening Agreement, you agree that:
- a) we and/or the Custodian may hold the Investments purchased for you in an omnibus account;
  - b) if we have or we through the Custodian have engaged such nominee, agent or broker in good faith, we shall not be liable to you for any and all loss suffered or incurred by you arising from or in connection with any act, omission or insolvency of such nominee, agent or broker;
  - c) the Investments may be interchangeable with other Investments in the omnibus account, and as such, we and/or the Custodian are not obliged to deliver any specific Investments to you and may instead sell the Investments at your expense and credit the Account; and
  - d) where the Investments are denominated in a foreign currency, the Investments may be held with such entity that is licensed, registered or authorised to act as a custodian in the country or territory where the Assets are held and the omnibus account is maintained.
- 15.3 We and the Custodian will not lend your investments to anyone else, or use them to raise finance.
- 15.4 You expressly authorise us to grant the broker/ Custodian/ nominee the right to retain any cash, or sell any investments, in order to meet any liabilities arising in connection with the provision of its services to us or you, and to deduct or set-off any amount owed to it from that cash or those investments for that purpose.
- 15.5 You shall indemnify us against any and all action which we deem in good faith necessary to ensure that we will not be in default of our obligation or responsibilities under this Account Opening Agreement. The indemnity shall apply even though as between you and us, you

may be in actual or anticipatory default and shall be in addition to any other right that we may have (whether expressly provided as between us or implied by law).

## 16. Fees and Charges

- 16.1 The fees and charges ("**Fees**") payable by you in respect of your use of the Services shall be calculated based on the net asset value in the Account accrued on a daily basis. You can access the Fees schedule at <https://mytheo.my/MYTHEO/mytheo-explained#price-structure-section>. We will invoice you for the Fees on a monthly basis subject to a minimum fee of USD 0.02. We reserve the right to change the Fees from time to time and will notify you of any such changes in writing.
- 16.2 In addition to the Fees payable pursuant to Clause 16.1, if your Account was referred or introduced by your financial advisor who provides regular investment updates to you, the following charges may be applicable to you, upon your approval:
- (a) **Subscription Fee:** This is a one-time subscription fee applicable to your investment deposit.
  - (b) **Service Fee:** This is an annual recurring fee calculated based on the value of your Portfolio.
- 16.3 All payments made pursuant to this Account Opening Agreement shall be without any deduction, withholding or set-off. All payments are exclusive of any and all applicable taxes and you agree that you shall be responsible for the same, and shall indemnify us in the event that we are required by law to make payment in respect of such taxes.
- 16.4 You acknowledge and agree that any amounts payable by you to us will be deducted from the Account. If the available funds within a Portfolio are insufficient, we may sell assets held as part of other Portfolios within your Account to cover such charges.
- 16.5 We may receive payment from, or share charges with, a third party. We will advise you about such payments or shared charges.

## 17. Compliance with Law

- 17.1 You acknowledge and agree that we do not provide any tax or legal advice to you but, may (but are not obliged to) in performing the Services, rely on external tax and legal advice. We shall not be responsible for such advice.
- 17.2 The provision of the Services, the Account, the Transaction and the relationship between us

and you shall be subject to all Applicable Laws. A breach of any Applicable Law shall not discharge or release you from any of your obligations under this Account Opening Agreement to us. The availability of the Services or any applicable terms and conditions (including pursuant to this Account Opening Agreement) may be varied by us for compliance with the Applicable Laws.

17.3 We shall be entitled to and we shall not be liable to you if we rely on and act in accordance with any Applicable Laws, including any guidelines or codes published by the SC to the extent the same are applicable to us

17.4 In the event any provision of this Account Opening Agreement is inconsistent with the requirements of any Applicable Laws, including any guidelines or codes published by the SC, the requirements of the relevant Applicable Laws shall prevail over this Account Opening Agreement.

## 18. Portfolio

18.1 The base currency of your Portfolio is United States Dollar ("USD").

18.2 All Portfolios are implemented via ETF that track the underlying indices of the relevant markets.

18.3 The Portfolios can consist of Investments in many different ETFs tracking well known indices in equities, bonds and real assets and including smart-beta factors. The core portfolio elements include:

- a) Income portfolio: invested mainly in global fixed income ETFs, including high-yield and emerging markets.
- b) Growth portfolio: invested mainly in single country, regional, size and style-based equity ETFs.
- c) Inflation hedge: invested mainly in real asset ETFs (commodities, metals, real estate, forestry etc.) as well as inflation protected bond (TIPS) ETFs.

## 19. Income

Income earned on the investments held in your Portfolio, which is payable to you, will be remitted to your Portfolio and may be reinvested.

## 20. Deposits

We accept payments from any Malaysia account, which is fully owned by you and your immediate family member(s), subject to proof of relationship provided by you, are authorised to use, by Financial Process Exchange (FPX) and/or bank transfer via Internet Banking.

## 21. Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001

We are obliged to comply with the Anti-Money Laundering, Anti-Terrorism Financing and Proceeds of Unlawful Activities Act 2001. To do that, we may occasionally need to ask for proof that a payment received by us has originated from your Malaysian bank account. We may also have to ask for evidence that your wealth is from a legitimate source. If we make what we regard as a reasonable request for these purposes, you agree to comply with it.

## 22. Withdrawals

We will only pay money to your Malaysian bank account. If you request a withdrawal, the money will be credited to your bank account. As the base currency of your Portfolio is in USD, we will arrange for the conversion of the balance sum in the Account to Ringgit Malaysia at a rate of exchange determined by the relevant bank where the bank account is maintained at the relevant time. Any exchange rate losses and the costs of conversion shall be borne by you. All monies will be credited into an account held by you. We will not accept instructions to credit into joint-accounts or third-party accounts.

## 23. Representation and Warranties

You represent and warrant as follows:

- a) your obligations under the Agreement are valid, binding and enforceable and your use of the Services complies with all Applicable Laws;
- b) you have the power and authority to enter into and perform and comply with your obligations under the Agreement;
- c) all information and documents which you have or will provide to us are true, accurate and complete;
- d) you have obtained all necessary consents, licences or approvals which you require to enter into Agreement, and the said consents, licences or approvals shall not be contravened by the execution or performance of this Account Opening Agreement;
- e) your entry into this Account Opening Agreement does not and will not violate any agreement to which you are a party or which is binding on you;

- f) you are an individual, and the legal and beneficial owner of the Account; and
- g) you will consult professional advisers as to the applicable law in force in your country.

## 24. Our Rights

- 24.1 You agree that the Services provided through our Platform may be modified, suspended or terminated by us pursuant to this Account Opening Agreement. We shall be entitled to provide the Services other than through the Platform.
- 24.2 You acknowledge that your use of the Services may be monitored by us from time to time and you agree to use the Services for a lawful purpose.
- 24.3 From time to time we shall be entitled to request from you information, documents and other material in our sole discretion and you agree to comply with any such request.

## 25. Records and Statements

- 25.1 All statements and any other documents in respect of the Account and the Transactions will be sent to you electronically through the email address submitted by you when you opened the Account or subsequently edited by you through the Platform.
- 25.2 You have fourteen (14) days from the date of the relevant document to verify and dispute the accuracy of all details contained in each statement, or any document sent to you. Upon the expiry of the said period, the details in such documents shall be conclusive evidence against you and we shall not be liable to you for any claims in respect of the details in such documents in respect of the Account, the Transactions or the Services.
- 25.3 We have the right to reverse any entry, demand refund, and/or debit the Account in respect of any overpayment or wrongful credit in the Account and we will only do so upon giving reasonable notice to you.
- 25.4 If you have not received any statement or other document or other notification relating to a specific Transaction within the normal period for postal deliveries, please notify us immediately.

## 26. Currency

You acknowledge and agree that we are entitled to convert any sum received by us to the currency of the Account or the currency in which payment is to be made (as the case may be) for purposes we deem fit including carrying out your instructions, crediting the Account, or payment of any sum due to us. The currency conversion rate will be determined by the relevant bank where the bank account is maintained at the relevant time. Exchange rate losses and the costs of conversion shall be borne by you.

In addition, a currency conversion fee is applied for administrative purposes, calculated at 0.1% of the transaction amount.

## 27. Related Dealings

You acknowledge and agree that all Transactions that you carry out with us and/or Services we provide to you are interrelated. If you fail to comply with your obligations or our instructions, we are entitled to not perform or withhold our obligations in respect of the Services.

## 28. Lien

28.1 We shall be entitled to withhold all your Assets in the event you owe monies or obligations (of any nature and howsoever arising) to us. All your Assets shall be subject to a lien pending the full settlement of all monies and discharge of all your obligations due to us. For this purpose, you shall deposit or transfer all documents of title relating to the Assets to us and you expressly grant us the right to sell your Assets.

28.2 You warrant and undertake that the Assets held in the Account shall not be subject to any lien or charge in favour of any other person.

28.3 Our rights under this Account Opening Agreement shall not prejudice any other rights that we may have and are in addition to any other rights we have at law, in equity or under any other agreement.

## 29. Delegation and Referrals

29.1 You acknowledge and agree that we may delegate or appoint another person or entity ("**Affiliate**") whether in Malaysia or otherwise to provide the Services to you pursuant to this Account Opening Agreement. We shall exercise reasonable care in the selection of such

Affiliate, however, we shall not be responsible to supervise the actions of and shall not in any way or to any extent be liable for any loss suffered by you for any default or breach by any such Affiliate.

29.2 You acknowledge and agree that our employees, officers, or Affiliates shall not have any authority to bind us to any obligations or liabilities as otherwise expressly provided in this Account Opening Agreement.

29.3 You may have been introduced to us by a third party. We do not accept responsibility for any conduct, action, representation or statement of such third party. We may share our Fees with or provide such other benefit as we may deem appropriate to such third party or any other third party.

### 30. Confidentiality

30.1 All information and data communicated or released to us by you in writing or any other form of media, during the term of this Account Opening Agreement, shall be received in strict confidence, shall be used only for the purpose of this Account Opening Agreement. We are not responsible for maintaining the confidentiality of such information in the event that such information:

- a) is already known to us or in our possession before the disclosure hereunder free of any obligation to keep it confidential;
- b) is or becomes publicly known through no wrongful act or default of ours;
- c) is received from a third party without similar obligations of confidence and without breach of this Account Opening Agreement;
- d) is independently developed by us; or
- e) is received from a third party who has lawfully acquired such information and is under no confidentiality obligation regarding its disclosure to us.

30.2 You acknowledge and agree that we may disclose information relating to you and the Account to third parties on a need to know basis and to such extent only as is necessary for the purposes contemplated by this Account Opening Agreement or as is required by law. In the event of such disclosure, we will reasonably ensure that such third parties to whom such disclosure is made are bound by obligations of confidentiality no less restrictive than the terms of this Agreement.

### 31. Indemnity and Liability

31.1 You agree to indemnify us and all of our employees, officers, Affiliates or counter-party employed or used by us in connection with the Services (collectively, our "**Associates**") against any loss, damage or cost incurred by us arising out of or in connection with your

access and use of the Services, including without limitation, the operation of the Account, Transactions, or any instructions. You will also indemnify us against any claims that information or material which you have submitted to us is in violation of any law or in breach of any third party rights (including, but not limited to, claims in respect of defamation, breach of confidence, infringement of copyright or infringement of any other intellectual property right).

- 31.2 To the maximum extent permitted by Applicable Laws, in no event shall we and our Associates be liable to you for any loss or damage suffered by you, including without limitation loss of income, profit, revenue, or savings or indirect, incidental, consequential, exemplary, punitive or special damages, howsoever arising, in relation to any Services or Transaction contemplated under this Account Opening Agreement. To the maximum extent permitted by Applicable Laws, our liability in connection with any Transaction or Service, shall not exceed the market value of such Transaction or Service.

## 32. Force Majeure

We shall not be liable for any delay or failure to perform its obligations hereunder if such delay or failure is due to an act, omission or circumstance over which we could not reasonably have exercised control, including without limitation to strikes, concerted actions of workmen, sabotage, civil commotion, lock-outs or other industrial disputes (whether involving the workforce of the party so prevented or of any other party), act of God, war, riot, civil commotion, malicious damage, acts of government or the export or import prohibitions, compliance with any law or governmental order, rule, regulation or direction, accident, breakdown of plant or machinery, breakdown or general unavailability of transport, general shortage of energy, fire, explosions, flood, or storm (collectively, **"Force Majeure Event"**).

## 33. Termination

- 33.1 We reserve the right to immediately suspend or terminate the Account or the provision of any Services, temporarily or permanently at any time, without being liable to you in any manner, in the event of the following:-
- a) you have not satisfied our account opening criteria, including, our "Know Your Client" procedures;
  - b) you fail to make any payment which are due to us or any other party;
  - c) your death or insanity;
  - d) a bankruptcy petition is presented against you;
  - e) you are involved in any litigation that we reasonably believe would be detrimental to our interests;



- f) you have breached the terms of the Agreement;
- g) your user identification, passwords and other security credentials assigned to you to access and use the Platform are stolen, lost, or compromised;
- h) we are required to do so pursuant to Applicable Laws or any rulings, directives or guidelines by the SC or any other regulatory body;
- i) a Force Majeure Event;
- j) you create multiple Accounts; or
- k) you create Accounts by automated or fraudulent means.

**33.2 Termination without cause by us.** We may at any time and without liability to you terminate this Account Opening Agreement including our Services by providing you with not less than fourteen (14) days' written notice.

**33.3 Termination without cause by you.** You may terminate this Account Opening Agreement or the Account with us at any time by providing us with notice in the manner as we may specify on the Platform.

## **34. Consequences of Termination**

**34.1** On termination of the Account or any Services or this Account Opening Agreement:

- a) you will discontinue your use of the Services;
- b) the instructions given by you or any action taken in relation to the Account before the receipt of a notice of termination will not be affected;
- c) transactions which have not been completed will be completed in the normal course of business;
- d) our entire liability with respect to the Account will be discharged by selling your Assets at your expense and transferring any credit balance in the Account to you at the earliest time possible and within twenty-one (21) days from the termination of this Account Opening Agreement, subject to Applicable Laws and unforeseen delays by the banks;
- e) all charges, costs and/or expenses due to us or any third parties under this Account Opening Agreement shall be due and payable immediately;
- f) you shall, upon our request, destroy or delete any information or documents (including copies) received from us;
- g) we may pass on to you charges levied by third parties as a result of the termination of this Account Opening Agreement;
- h) all provisions of this Account Opening Agreement which are by their nature intended to survive the expiration or termination of this Account Opening Agreement shall survive such expiration or termination.

## 35. Death

Upon your death, we are entitled to retain all your Assets and any monies payable to or credit in any Account for as long as legally required. We will only release your Assets and any monies in credit in the Account when your executor or administrator provides us with a copy of a grant of probate or letters of administration.

## 36. Dormant Accounts

- 36.1 We will mark any Account as dormant if you have not undertaken any Transaction for at least seven (7) years.
- 36.2 We will send you a notification regarding your dormant Account three (3) months prior to the expiry of the said seven (7) year period.
- 36.3 If we determine in good faith that the Account remained dormant for at least seven (7) years, we shall be entitled to mark the Account as 'Dormant' and you agree that we are entitled to liquidate all Assets then standing to the credit of any Account or otherwise held by us or our Affiliate (as the case may be) together with any property as may from time to time continue to accrue to those monies and property (whether by way of dividends, interest or otherwise). The proceeds of the liquidation after setting off any applicable administrative costs shall be held by us for your benefit for a period of one (1) year.
- 36.4 If any of the proceeds of your Assets legally payable to you remain unpaid to you after a period of one (1) year from the date on which it became payable, the Account will be marked as 'Closed' and we shall lodge such unclaimed amount by you to the Registrar of Unclaimed Moneys, in accordance with the Malaysian Unclaimed Moneys Act 1965. You shall have no right whatsoever to claim such proceeds from us after the unclaimed amount is lodged with the Registrar of Unclaimed Moneys. You are deemed to have waived and abandoned all your rights to such proceeds (and any other property as may accrue to it).

## 37. Communication Records

- 37.1 All records (including telephone conversation, computer records and any other electronic records stored by us) of matters relating to you, the Transactions, the Accounts and/or any Services provided to you is conclusive evidence of such matters and is binding against you for all purposes.
- 37.2 We are required by Applicable Laws to destroy or dispose of all records, statements,

registers, and other documents relating to the Account, Services or Transactions after the expiration of any period of retention required by Applicable Law. You agree that we shall not be liable to you in any way for such destruction or disposal.

37.3 As our client, we may communicate with you at any time, including, when appropriate by telephone. We or any of our Affiliates may record any telephone conversation or any electronic communication conducted between you and us or our personnel. You authorise us and our Affiliates to retain such recordings and use them in such manner as we consider appropriate. These recordings are our property and we may use them in evidence in legal proceedings. You agree to waive your rights to challenge or dispute the admissibility, reliability, accuracy or the authenticity of the contents of such records.

37.4 We cannot guarantee that electronic communications will be successfully delivered to you, or that they will be secure and virus free. We will not be liable for any loss, damage, expense, harm or inconvenience caused as a result of an email being lost, delayed, intercepted, corrupted or otherwise altered or for failing to be delivered for any reason beyond our reasonable control.

## 38. Rebates and soft commission

38.1 In the event that we receive any rebates arising from any Transaction, we will direct such rebates to your Account.

38.2 You consent to our accepting or receiving soft commission (arising from Transactions or orders on your behalf) in the form of research and advisory services that assist in the decision-making process relating to your investments.

38.3 We agree to disclose details of the said soft commission to you as soon as practicable upon our acceptance or receipt of the said soft commission.

## 39. Notices

39.1 All notices and other communications to be given to any party pursuant to this Account Opening Agreement shall be in writing and in English language and shall be valid and sufficient if dispatched or sent to the address or email address designated by you in the Account. Such notice shall be deemed to have been served:

- a) if sent by registered mail or courier, five (5) days after dispatch; or
- b) if sent by e-mail, upon successful delivery of the email and recorded as a sent email if sent before 5p.m. on a working day and if sent after 5p.m., the next working day.

## 40. Complaints

- 40.1 If you have a complaint about our Services, please tell us by email at <https://mytheo.my/mytheo/contact-us.html>
- 40.2 We will acknowledge your complaint within five (5) working days. After that, we will investigate your complaint and keep you informed of progress. Within sixty (60) days of receiving your complaint we will either (1) send you a "final response", which accepts your complaint and offers redress or remedial action; or offers redress or remedial action without accepting your complaint; or reject your complaint and explain why we have done this; or (2) explain why we have not been able to complete our investigation.
- 40.3 If you are dissatisfied with our findings or the handling of your complaint, you may refer to the courts of Malaysia or where you have a monetary dispute, you may refer the matter to the Securities Industry Dispute Resolution Center (SIDREC).

## 41 Non-Waiver

- 41.2 No delay or failure by us to exercise or enforce at any time any right or provision of this Agreement shall be considered a waiver, unless made in writing. No single waiver shall constitute a continuing or subsequent waiver. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.
- 41.3 We may grant time or other indulgence to you or any other person, without impairing or affecting in any way any of our rights as against you or any such other persons.

## 42 Amendments to this Account Opening Agreement

We reserve the right to amend this Account Opening Agreement and the other documents consisting of the Agreement at any time. Upon any such change, we will post the amended terms on the Platform or we may also attempt to notify you via electronic or conventional mail. Your continued access to and/or use of the Platform following such posting and/or notice shall constitute your agreement to be bound by this Account Opening Agreement or other applicable Agreement document, as amended. If at any time you choose not to accept this Account Opening Agreement, including following any such modifications hereto, then you must stop using the Platform and/or the Services.

#### 43 Governing Law

The Agreement shall be governed by the laws of Malaysia and the courts of Malaysia shall have exclusive jurisdiction.

#### 44 Severability

If any terms in this Account Opening Agreement is held to be invalid, unenforceable or illegal for any reason, the remaining terms and conditions shall nevertheless continue in full force.

#### 45 Non-assignment

You may not assign, transfer or sublicense the Agreement to anyone else and any attempt to do so in violation of this clause shall be null and void.

#### 46 Survival

All disclaimers, indemnities, exclusions in this Account Opening Agreement shall survive the termination of this Account Opening Agreement.

#### 47 Headings

The headings in this Account Opening Agreement for convenience only, do not form a part hereof, and in no way limit, define, describe, modify, interpret or construe the meaning, scope or intent of this Account Opening Agreement or any terms or conditions therein.