

## TERMS OF BUSINESS

These Terms of Business set out the basis on which Acumen & Trust DAC will provide business services to you as a Corporate client. The types of services which we provide will depend on your particular categorisation and objectives. Please take a few minutes to read through these and if you have any questions we will be happy to answer them.

### Definitions:

“Client” means the company or other legal or business entity, or the person or persons, who has engaged Acumen & Trust DAC to provide services in accordance with the contract and any affiliate or subsidiary to whom Acumen & Trust DAC provides services.

“Acumen & Trust DAC Information” means the intellectual property rights in all systems, techniques, methodologies, ideas, concepts, information and know-how developed during our performance of the Contract.

“Contract” means the agreement formed by these Terms of Business, the Letter of Engagement, the Schedule of Services, Fee Agreement and the Data Processing Annex (where applicable to The Contract).

“Data” means any Personal Data processed by the Data Processor pursuant to the Contract.

“Member(s)” means the individual(s) participating in, eligible to participate in, or who previously participated in, the Scheme (and, where appropriate, shall include any actual or potential beneficiaries of the Scheme).

“Member Data” means the records and information you or Members supply to us, in the course of providing the Services and pertaining to Members and their benefits under the Scheme.

“Scheme” means the pension scheme or risk or health insurance schemes of the Client.

“Services” means the services provided to the Client by Acumen & Trust DAC and set out in the Schedule of Services and Fee Agreement.

In these terms, “we”, “us” and “our” refer to Acumen & Trust DAC and “you” and “your” refer to the Client.


### Regulatory Status

The full name and address of the firm and communication details are as set out below. Acumen & Trust DAC is regulated by The Central Bank of Ireland under registration number C1310 as an Investment Intermediary under the Investment Intermediaries Act, 1995, as an Insurance Intermediary under the European Communities (Insurance Distribution) Regulations, 2018, as a Mortgage Credit Intermediary under the European Union (Consumer Mortgage Credit Agreements) Regulations 2016, and as a Mortgage Intermediary under the Consumer Credit Act, 1995 (as amended). Copies of our Authorisations are available on request and can be verified on the Central Bank’s Registers available under the above headings on the Central Bank’s website [www.centralbank.ie](http://www.centralbank.ie). Where relevant we are subject to the Central Bank’s Consumer Protection Code 2015 and the Minimum Competency Code 2017 which offer protection to consumers – these Codes can also be found on the Central Bank’s website, [www.centralbank.ie](http://www.centralbank.ie). The provision of the balance of our pension consultancy services do not require licensing, authorisation or registration with the Central Bank of Ireland and as a result, are not covered by its requirements designed to protect consumers or by a statutory compensation scheme.

**ACUMEN & TRUST DAC**  
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**DIRECTORS:** C BRENNAN BCOMM AITI,  
C CROWLEY FIIPM, C MARTIN BCOMM FPMI,  
D ROBB BCOMM AITI, F O’SULLIVAN BA ACII  
FIIPM CIP, S JONES QFA.

**ACUMEN & TRUST DAC** IS REGULATED  
BY THE CENTRAL BANK OF IRELAND.  
REGISTERED IN DUBLIN NUMBER  
253567.



## **Group Status**

Acumen & Trust DAC is wholly owned by BCRM Financial Holdings (Ireland) DAC (BCRM). BCRM is in turn owned by Invesco Limited (Irish Life Group Limited through its subsidiary 1939 ILIV Consulting Limited maintains a controlling interest in Invesco Limited).

## **Services:**

The services to Corporate clients which the firm is authorised to provide are:

- Administration services for pension, risk and health schemes
- Consultancy services for pension, risk and health schemes
- Registered Administrator services

## **Your Responsibilities**

You will be responsible to ensure that, and we will be entitled to assume that, you and your duly appointed officers will perform their obligations in accordance with all applicable law and your memorandum and articles of association and will comply with all laws including regarding the filing of all returns in a complete, correct and timely manner.

You will not take any action or conduct yourself in any way that could or might cause us to be in breach of any law, regulation, guidelines or direction or to be the subject of any liability whatsoever within Ireland or any other jurisdiction. You agree to indemnify us, our directors, officers and agents and to keep us, our directors, officers and agents indemnified against all and any liabilities, losses, expenses (including reasonable legal fees and expenses) or other costs we reasonably incur in connection with any claims or actions against us by any third party.

## **Fees & Charges**

Depending on your requirements and the services you require, Acumen & Trust DAC may charge a fee for our services. If you elect to pay by way of fee, we will agree the fee basis with you in writing prior to providing you with a service. Where we are engaged to provide advice and this does not result in product placement or we do not receive commission from a product provider we will charge you a fee on the basis set out at commencement of the engagement. Commissions which we receive will not be offset against any fees due to us unless agreed in writing.

In relation to Corporate Group Scheme business, our fees are generally based on a per member charge, fixed charge and/or hourly rate depending on the services provided. We will discuss the types of services on offer and will agree a fee basis tailored to your requirements. Payment of any fee charged is due on issue of our invoice.

Acumen & Trust DAC will, if necessary, exercise its legal rights to receive any payments due to it from clients for business services provided by it and, to be reimbursed for any value obtained by us for clients arising from payments by us on behalf of clients who subsequently default in any payment due to us.

Product producers may withdraw benefits or cover on default of any payments due under any products arranged for your benefit. Details of these provisions will be included in your product terms and conditions.

### **Duration and Termination**

The Contract will apply from the Commencement Date (if any) or, where no Commencement Date is specified, from the date upon which the service commence. The Contract will continue unless it is terminated earlier in accordance with the terms set out below.

**Right to terminate:** Unless agreed otherwise, the Contract may be terminated by either of us at any time by giving not less than 30 days written notice.

**Return of Property:** On the termination of the Contract, each of us will return to the other any property of the other that it then has in its possession or control, except that we may retain one copy of any documentation prepared or modified by us or any other information, whether in electronic format or otherwise upon which our Services are based to enable us to maintain a professional record of our involvement.

**Termination for Breach:** The Contract may be terminated by either party on written notice with immediate effect if the other commits a material breach of any term of this Contract which in the case of a breach capable of being remedied, is not remedied within 30 days of a written request to remedy of same.

**Termination for Insolvency:** The Contract may be terminated by either of us by written notice with immediate effect in the event that the other party is unable to pay its debts or has a receiver, administrator, examiner or liquidator appointed or calls a meeting of its creditors or ceases for any other reason to carry on the business or if, in the reasonable opinion of the other party, any of these events appears likely.

**Right to Terminate for Legal or Regulatory Reasons:** we may terminate the Contract (or if we consider it appropriate the provision of certain services) forthwith by notice in writing if we believe that, or anticipate imminent circumstances where, the Contract or any of it might result in us or you violating any legal or regulatory requirement in any applicable jurisdiction or any requirement or direction of any relevant body (including by way of example, the Revenue Commissioners, the Financial Services and Pensions Ombudsman or the Pensions Authority).

**Payment of Fees on Termination:** Where either of us terminates the Contract for any reason, you will pay us for all Services provided up to the date of termination together with any additional costs reasonably incurred by us as a result of the early termination of the Services including, but not limited to, costs relating to sub-contracts or relocation costs. We will take reasonable steps, where possible, to mitigate any such additional costs. We reserve the right to take whatever action we, in our sole opinion, deem necessary to recover all sums due by you to us.

### **Conflicts of Interest**

It is the policy of the Company to avoid any conflict of interest when providing business services to its clients. However, where an unavoidable conflict may arise we will advise you of this in writing before proceeding to provide a service. If you have not been advised of any such conflict you are entitled to assume that none arises.

## **Complaints Handling**

Any complaint that you may have in relation to the business services provided should be made in writing to us outlining the nature of your complaint. Any such complaint will be acknowledged within 5 business days. The complaint will be fully investigated by Acumen & Trust DAC and a full response will be provided. We aim to provide this response not later than 20 days from receipt of your complaint. In the event that you remain dissatisfied with the firm's handling and response to your complaint you are entitled to refer your complaint to the Financial Services & Pensions Ombudsman.

**Notice of Complaint:** In our experience, the longer the delay between an event which could give grounds for complaint and the date on which the complaint is made, the more difficult it is for matters to be addressed to the complaining party's satisfaction. Accordingly, we will have no liability whatsoever in relation to this Contract (other than where we are guilty of fraud in relation to the Contract) unless we have been notified in writing by you of a claim, setting out reasonable details of such claim, within three years from the date on which you first become aware, or ought reasonably to have become aware, of the facts which give rise to the claim.

## **Data Protection**

We operate to the highest standards of client confidentiality and meet statutory requirements under the Data Protection Acts 1998 to 2018, and the European Union's General Data Protection Regulation (GDPR) and any consequential national data protection legislation.

Acumen & Trust DAC acts as Data Controller under the terms of the Data Protection Act 2018 or any other legislation or regulations implementing Directive 95/46/EC, the General Data Protection Regulation (GDPR) and any consequential national data protection legislation and including any guidelines, codes of practice or similar circulars issued by the Data Protection Commissioner, in each case as may be replaced, re-enacted, consolidated, extended, revised or amended from time to time, for the purpose providing our services. Where we act as Data Controller, we may process certain personal data for the purposes described in our Privacy Notice. We collect and process data in accordance with applicable data protection legislation and, in our capacity as a Data Controller, we may share personal data with insurance companies, cloud services providers and other third party service providers with which we deal for the purpose of providing our services.

We have ensured, through a comprehensive selection process, that the appointed cloud services providers have appropriate and sufficient ability, capacity and resources to perform the cloud services. We have constant oversight over the outsourced activities and we have established clear lines of responsibility. The performance of the appointed cloud services providers is monitored on an ongoing basis.

The cloud services providers are based in the EEA and they implement appropriate technical and organisational measures that ensure the protection of your personal data. The cloud services providers will only process your data in accordance with our instructions.

We would also like to offer you products and services which we think may be of interest to you. In order to do so, we would like your consent so that we may contact you by letter, email, SMS text, or telephone (mobile and landline). You have the right to ask us not to send marketing information to you at any time.

We will not, unless required by law, process any personal or sensitive data acquired or used by us in the course of our work for you, or for purposes ancillary thereto. We retain personal data for at least seven years from the date of each transaction and as required by law. Such records may include vouchers and copies of entries held by us either manually or in a computerised form.

We will not process nor transfer any data outside the European Economic Area (EEA) without the prior written consent of the Client. The prior written consent of the Client will not be required where such transfer is agreed in accordance with a sub-processing agreement or where the data is transferred to a country outside the EU which has been recognised by the European Commission as providing an adequate level of protection. A list of these countries can be found on the European Commission's website.

We may use information about you now and in the future: (i) to provide you with information on products and services for marketing purposes (ii) for market research and (iii) tracking of sales data. You have the right to ask us not to send marketing information to you at any time. We may retain records for at least seven years from the date the relationship ends and as required by law. Such records may include member's personal data and copies of entries held by us either manually or in a computerised form.

We enclose our Data Privacy Notice, which is also available on our website [www.acumenandtrust.com](http://www.acumenandtrust.com).

**Confidential Information:** Neither of us will disclose to any third party, without the prior written consent of the other party, any proprietary or confidential information, which is received from the other party for the purposes of providing or receiving the Services including, without limitation, the terms and conditions of the Contract and amounts payable under the Contract ("Confidential Information"). Each of us agrees that any Confidential Information received from the other party shall be used only for the purposes of providing or receiving the Services under the Contract or any other contract between us. The Confidential Information may be disclosed to our respective employees involved in the Services, but we will each make our respective employees, to whom such Confidential Information is disclosed, aware of the restrictions on disclosure contained in this Clause. These restrictions will not apply to any information which:

- is or becomes generally available to the public other than as a result of a breach of an obligation under this Clause; or
- is acquired from a third party.

**Disclosure Required by Law:** Notwithstanding Clause above, either of us will be entitled to disclose Confidential Information of the other to:

- our respective insurers, registered administrators or legal advisers; and
- a third party to the extent that such disclosure is required by law, by any court of competent jurisdiction, or by governmental or regulatory authority, or where there is a legal right, duty or requirement to disclose such Confidential Information, provided that (and without breaching any

legal or regulatory requirement) where reasonably practical, not less than two business days' notice in writing is first given to the other party.

Our Data Privacy Notice sets out the legal basis for processing of member data and the member's rights in respect of their data. Our Data Privacy Notice is available on our website <https://www.acumenandtrust.com/>

You confirm and agree that you will inform your staff that our Data Privacy Notice is available on our company website.

**Marketing:** We are entitled to include your name on reference lists. For marketing material, we are entitled to use brief descriptions of the consulting projects in connection with your name. If you do not wish to be included in such reference lists, please advise us immediately in writing.

**Citation of Services:** Without prejudice to the Terms above, we may cite the performance of the Services for you to our clients and prospective clients as an indication of our experience. If you do not wish us to do so, please advise us immediately in writing.

**Working for Other Clients:** Subject to our Conflicts of Interest policy, we will not be prevented or restricted by anything in the Agreement from providing services for other clients.

## **Liability**

We use due skill, care and diligence in the provision of our services.

**Current Law:** Our Services are provided in accordance with professional practice and guidelines current during the term of the Contract and on the basis of our understanding of the proper interpretation of pension's law, court decisions, regulations and interpretations of the law in existence on the date on which we provide you with information. Changes in the law and interpretations may take place before you act upon such information or may be retrospective in effect and therefore we accept no responsibility for any loss arising as a result of your acting or omitting to act, or relying upon such information in circumstances where there are changes in the law, or in interpretations of the law, occurring subsequent to the date on which such information is delivered to you.

**Acceptance of Liability:** We shall only be liable for direct and actual loss proven by you and we shall not be liable for any indirect, consequential or economic or other loss whatsoever or howsoever arising including, without limitation, loss of profits and/or loss of business opportunity. For the purposes of this Contract liability shall be defined as our aggregate liability in contract, tort, under statute or otherwise (including in respect of any omission), whether to you or any other party. This includes, without limitation, our liability for the acts or omissions of our directors, agents, employees, sub-contractors, or other representatives;

**Liability cap:** Our total liability (whether arising in contract, tort or otherwise) to you and your officers, directors, trustees, employees or shareholders and to any third party, for all claims arising out of the Contract and the services (including, without limitation, for multiple claims arising out of or based upon the same act, error or omission) shall not exceed the amount of €250,000.

**Force Majeure**

Provided that all reasonable efforts are taken to minimise the effects thereof, neither of us will be liable to the other for any delay or failure to fulfil their obligations under the Agreement to the extent that any such delay or failure arises from causes beyond their reasonable control, that cannot be prevented by either of us taking steps that could reasonably be expected to be taken (such as appropriate disaster recovery procedures), including but not limited to fire, flood, acts of God, acts or regulations of any governmental or supranational authority, war, riot, strike, lockouts and industrial disputes.

**Documents**

**Ownership:** Files and documents (including our working papers), created during the provision of the Services, belong to us and will remain under our power and control. It is not our practice to release or grant access to such papers or electronic copies other than in the context of due diligence investigations where we have received letters, in a form suitable to us, releasing us from liability. Documents coming into our possession or created when we act as a client's agent, belong to the client and may be returned on request. We reserve the right to retain a copy of all such documents released to the client.

**Consent:** Inevitably in dealing with client work, some documents that come into our possession belong to the client rather than to us. Whilst we would normally return the original of any document belonging to a client which has enduring significance, it is likely that over a period of time, other less important records, which strictly remain the client's property, will be filed amongst our own papers or electronic copies. It would assist in managing our storage facilities to have your consent in advance to destroy any papers or electronic copies that, in our opinion at the time when the seven-year review for the purpose of destruction of documents is carried out, do not warrant continued retention. Unless and until you notify us to the contrary, we will regard your acceptance of these Terms of Business as including your consent for us to destroy any papers or electronic copies that might belong to you at such time. Our documentation retention practices are subject to the Data Protection Act, 2018 (as amended, re-enacted, supplemented or substituted from time to time) where such documents contain personal data as defined in those Acts.

**Scheme Information:**

Scheme Information will remain your property. You represent that the uses of Scheme Information contemplated in this Contract will not infringe the proprietary rights of any third party and that you have obtained all consents of any such third party, including that of all Members, necessary for such uses of Scheme Information.

You own the Communications and we transfer and assign to you all right, title and interest in or to any communications, including, without limitation, all copyrights, and other intellectual property rights.

**Governing Law**

This agreement will be governed by and interpreted in accordance with the laws of Ireland.



## General

Scheme Information will remain your property. You represent that the uses of Scheme Information contemplated in the contract will not infringe the proprietary rights of any third party and that you have obtained all consents of any such third party, including that of all members, necessary for such uses of Scheme Information.

Assignment: You may not transfer, charge or otherwise seek to deal with any of its rights or obligations under this Contract without our prior written consent.

Anti-Money Laundering: All necessary anti-money laundering verification checks are undertaken in accordance with the Criminal Justice Act 1994 (as amended) and the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 and the Criminal Justice (Money Laundering and Terrorist Financing) (Amendment) Act 2018 and regulations pursuant thereto. If such checks are delayed, either by a failure of the member to supply documentation or for any other reason, we shall not be responsible for any loss incurred due to the delay in investing the member's monies.

These Terms of Business are effective from 6<sup>th</sup> of August 2020 until further notice and they supersede all previous versions. We reserve the right to amend our Terms of Business without prior agreement, however consideration will be given to whether the changes materially affect any clients and we will notify any client so affected.