

**ATHENA ADVISORY  
TERMS OF SERVICE**

**EFFECTIVE DATE: December 1, 2023**

**BY USING THE SERVICES, YOU AGREE TO THESE TERMS. IF YOU DO NOT AGREE TO THESE TERMS, YOU MUST EXIT THE SERVICES AND DISCONTINUE USE OF THE SERVICES AND ANY CONTENT CONTAINED IN OR ACCESSED THROUGH THE SERVICES.**

**PLEASE BE AWARE THAT SECTION 12 OF THESE TERMS CONTAINS PROVISIONS GOVERNING HOW TO RESOLVE DISPUTES BETWEEN US. AMONG OTHER THINGS, SECTION 12 INCLUDES AN AGREEMENT TO ARBITRATE, WHICH REQUIRES, WITH LIMITED EXCEPTIONS, THAT ALL DISPUTES BE RESOLVED BY BINDING AND FINAL ARBITRATION. SECTION 12 ALSO CONTAINS CLASS ACTION AND JURY TRIAL WAIVERS. UNLESS YOU OPT OUT OF THE AGREEMENT TO ARBITRATE WITHIN 30 DAYS: (i) YOU WILL ONLY BE PERMITTED TO PURSUE DISPUTES OR CLAIMS AND SEEK RELIEF AGAINST US ON AN INDIVIDUAL BASIS, NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY CLASS OR REPRESENTATIVE ACTION OR PROCEEDING AND YOU WAIVE YOUR RIGHT TO PARTICIPATE IN A CLASS ACTION LAWSUIT OR CLASS-WIDE ARBITRATION; AND (ii) YOU WAIVE YOUR RIGHT TO PURSUE DISPUTES OR CLAIMS AND SEEK RELIEF IN A COURT OF LAW AND TO HAVE A JURY TRIAL.**

**WE MAY MODIFY THESE TERMS AT ANY TIME BY POSTING UPDATED TERMS ON THIS PAGE OR BY SENDING YOU NOTICE TO THE EMAIL ADDRESS ASSOCIATED WITH YOUR ACCOUNT. IF ANY MODIFICATION IS UNACCEPTABLE TO YOU, YOU MUST DELETE YOUR ACCOUNT AND CEASE USING THE SERVICE. BY CONTINUING TO USE OR ACCESS THE SERVICE, YOU AGREE TO THE REVISED TERMS.**

**YOU MAY ONLY ACCESS AND USE THE SERVICES IF YOU ARE OVER THE AGE OF 18 AND ARE LOCATED IN THE UNITED STATES.**

These Terms of Service, including our [Privacy Policy](#) (collectively, the “Terms”), are entered into between you, the user (“you” or “your”), of the Athena Advisory financial wellness and planning platform accessible at [www.advicebyathena.com](http://www.advicebyathena.com) (the “Platform” and the services provided therein, the “Services”) which is made available by Athena Advisory, Inc. or our affiliated entities (referred to as “we,” “us,” or “our”).

The Terms consist of four parts: (1) these Terms; (2) the [E-Sign Consent](#) to Use Electronic Records and Signatures; (3) the [Privacy Policy](#); and (4) the terms and conditions specific certain aspects of the Service included in the Service Specific Addendum, including the terms and conditions specific to our advisory services available at: [Investment Advisory Agreement](#) (“Advisory Agreement”). The Service Specific Addendum includes terms related to our advisory, brokerage, cash management and debt management services. In the event of a conflict between these Terms, the Advisory Agreement, and the Service Specific Addendum, the order of precedence is as follows: (1) with respect to our advisory services, the order of precedence shall be the Advisory Agreement, then the Service Specific Addendum, then these Terms; and (2) with respect to any other Service, the order of precedence shall be the Service Specific Addendum and then these Terms. Where we use the term “including” in these Terms, it means including without limitation.

- 1. Services.** We provide financial wellness, debt management, cash management and similar financial wellness services (“Financial Wellness Services”). We also provide advisory and brokerage services pursuant to the terms of the Service Specific Addendum. The brokerage and Financial Wellness Services should not be considered investment or financial advice and such Services are provided for educational purposes only. The provision of advisory services that we provide as a registered investment advisor is subject to the terms of the Advisory Agreement. None of our Services are intended to provide legal or tax advice. You are responsible for your own investment research and decisions, and we will not be liable for any actions you take based on information you receive from the Services. You should consult with your own tax, legal and financial advisors before implementing any financial strategy recommended by Services. We reserve the right to modify, change, or discontinue the Services, including any third-party integration, feature, component, or portion thereof.
- 2. Access to the Services.** In order to access the Platform and receive the Services, you must register and create an account. We may be required to verify your identity, and you authorize us to collect information in order to do so. You are responsible for ensuring that the information that you provide to us is accurate and up to date. You are responsible for

ensuring that your account credentials are secure. You will notify us immediately in the event that you believe your account information or access credentials have been compromised. We reserve the right to discontinue your access to and use of the Platform or any of the Services at any time, for any reason, and with or without notice to you. The Platform is intended solely for individuals who are 18 years old or older and who are located in the United States. Any access to or use of the Platform by anyone under the age of 18 is unauthorized, unlicensed, and in violation of these Terms.

3. **Restrictions on Use of Services & Acceptable Use of Services.** You agree that you will not, and that you are prohibited from: (a) copying, modifying, reproducing, duplicating, publishing, licensing or creating derivative works or improvements of the Services, or any material made available within the Services (except that you may make copies of Your Data solely as necessary for your own personal use as described in Section 3); (b) renting, leasing, lending, selling, sublicensing, assigning, distributing, publishing, transferring, or otherwise making the Services, or any information, software or materials available within the Services, to any third-party; (c) reverse engineering, disassembling, decompiling, decoding, adapting, or otherwise attempting to derive or gain access to any portion of the Services, in whole or in part, in a manner that we did not authorize; (d) bypassing or breaching any security device or protection used by the Services or accessing or using the Services other than by an authorized user through the use of valid access credentials; (e) inputting, uploading, transmitting, or otherwise providing to or through the Services, any information or materials that are unlawful or injurious, or contain, transmit, or activate any harmful code; (f) damaging, destroying, disrupting, disabling, impairing, interfering with, or otherwise impeding or harming, in any manner, the Services or the provision of the Services, in whole or in part; (g) removing, deleting, altering, or obscuring from the Services any of our trademarks; (h) accessing or using the Services in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right, data privacy right, or other right of any third party (including by any unauthorized access to, misappropriation, use, alteration, destruction, or disclosure of the data), or that violates any applicable law; (i) accessing or using the Services for purposes of developing a competitive offering; (j) sending unsolicited messages; (k) impersonating any third-party; (l) using the Services in any manner that is or could be construed as obscene, threatening, abusive, defamatory, libelous, or which encourages criminal conduct; and (m) using the Service for any illegal activity or otherwise in violation of applicable law.
4. **Terms Related to Data.** As used in these Terms: (a) “**Your Data**” means the information that you submit directly to the Services; (b) “**Resultant Data**” means the information you receive from your use of the Services that is based on Your Data in combination with Third Party Data; (c) “**Third Party Data**” means the information about you that we receive from Third Party Services in order to provide or enhance the Services; (d) “**Our Data**” means any information about the Services (excluding Your Data, Resultant Data, and Third Party Data), including information that we receive about your use or the operation of the Platform or the Services that we collect and use to support, secure, and improve the Services. You hereby grant to us a limited, non-exclusive right to access, copy, transmit, download, display, publish, modify, create derivatives of and otherwise reproduce Your Data and Resultant Data as necessary to provide, support, and improve the Services. With respect to Third Party Data, we hereby grant to you a perpetual, non-sublicensable, non-transferable, non-exclusive right to access, copy, transmit, download, display, and to reproduce Third Party Data, solely for your own personal use and as necessary to receive and use the Services and for no other purpose. You are prohibited from disclosing Third Party Data to any third-party (other than your financial, tax, legal or other advisors) unless we expressly authorize such disclosure. You acknowledge and agree that we may share Our Data or Third Party Data, including where Our Data or Third Party Data identifies you, with third parties in accordance with our [Privacy Policy](#) and you hereby consent to our disclosure of such data to third parties. In addition, we may use Your Data to provide recommendations that are generated by artificial intelligence. We do not input personally identifiable information into artificial intelligence models. We may share Your Data or Third Party Data with third parties who offer financial products and services in order to provide you with recommendations within the Services.
5. **Third-Party Services.** The Platform integrates with and receives information (including Third Party Data) from third-party sources, services, software, applications, and platforms (each a “**Third Party Service**”). Third Party Service providers may provide services related to financial data aggregation, financial account information, lender information, credit information, information services, brokerage or financial advisory account information, or other similar kinds of information. Third Party Services may also offer financial products or services to you. We do not control, operate, or offer the Third Party Services and are not responsible for how the Third Party Service is provided, the accuracy, completeness, integrity, or security of any Third Party Service or any integration point controlled by a Third Party Service. The Third Party Service may make changes to its service, or components thereof, or suspend or discontinue its service with or without notice. We do not monitor or review the practices of any Third Party Service and are not responsible for how the Third Party Service provides its service or for how it transmits, accesses, processes, stores, uses, shares, or provides data (including Third Party Data). **WE EXPRESSLY DISCLAIM ALL LIABILITY RELATED TO OR ARISING FROM ANY THIRD PARTY SERVICE, INCLUDING LIABILITY RELATED TO OR**

**ARISING FROM ANY ERRORS, INACCURATE INFORMATION, UPDATES, MODIFICATIONS, OUTAGES, DELIVERY FAILURES, CORRUPTION OF DATA, LOSS OF DATA, USE OF DATA, SECURITY, DISCONTINUANCE OF SERVICES, VIOLATION OF LAW BY SUCH THIRD PARTY SERVICE, OR TERMINATION OF THE THIRD PARTY SERVICE.** You are solely responsible for ensuring that you review and comply with all Third-Party Service terms and conditions. Certain Third Party Services may require that you agree to their terms and conditions prior to the use of the Third Party Service. These terms and conditions may be provided as a click through for you to accept within the Service or may be provided directly on the Third Party Service website or account. With respect to each of these services, the service agreement is entered into directly between you and the applicable Third Party Service. You agree that any claims you may have regarding the Third Party Service and all liability arising out of your use of the Third Party Services (if any) is solely between you and the applicable Third Party Service provider. Third Party Service terms may be updated without notice from time to time, and you agree to check periodically to be sure you have reviewed any such updates. You understand that we will receive information about your account with any Third Party Service that you elect to use within the Service.

- 6. Subscription Fees.** In order to access the Services, you must pay the subscription fees applicable to the Services. You will be required to provide credit card or debit card information in order to access the Services. Fees will initially be charged upon purchase when you provide your payment information, unless stated otherwise in applicable payment provisions. You may be charged a subscription fee in advance on an annual basis or other recurring interval disclosed to you prior to your purchase. If fees are to be paid on a recurring basis (e.g., monthly or annually), you agree that we may charge the recurring fee on the credit or debit card you provide on a recurring basis. If your payment information is not accurate, current, and complete, we may suspend or terminate your Service account. We may change the price for recurring subscription fees from time to time with notice to you. Price changes will take effect at the start of the next subscription period following the date of the price change. If you do not agree with the price change, you may unsubscribe prior to the price change going into effect. Your payment will automatically renew at the end of the applicable subscription period, but you can cancel a subscription at any time. Subscription cancellations will take effect the day after the last day of the current subscription period. If you cancel in the middle of a subscription period, you will be able to continue to access and use the applicable Service until the end of your subscription period. We do not provide refunds or credits for any cancellations or partial subscription period.
- 7. Termination.** We may terminate the Service upon notice to you, for any reason including if you are in breach of these Terms or fail to pay subscription fees. We may suspend your account for any reason, including if we believe that you are in breach of these Terms or if we believe it necessary to protect the integrity, performance, operation, availability, or security of the Service or any Third Party Service.
- 8. Intellectual Property Ownership.**

  - a. We own all right, title and interest in and to (i) the Platform, including the technology, infrastructure, software, hardware, databases, electronic systems, networks, and all applications, APIs, scripts required to deliver the Services, or that we otherwise make available to you, including all documentation regarding the use or operation of the Services or any materials referred to as our intellectual property in the Services Specific Addendum; and (ii) Our Data, Third Party Data and any graphics, images, or similar materials made available within the Services (collectively, “**Intellectual Property**”). Except as expressly stated herein, nothing in these Terms will serve to transfer to you any right in or to the Intellectual Property and we retain all right, title and interest in and to Intellectual Property.
  - b. The Platform, as well as the selection and arrangement thereof, is the sole property of the Company and/or its licensors and are protected by patent, copyright, trademark, and other intellectual property laws and may not be used except in accordance with these Terms or with our express written consent. Other than as necessary for your use of the Service in accordance with these Terms, we do not grant you any other privileges or rights in the Platform, Services or any content made available therein, to you, and you must not alter any patent, copyright, trademark, or other proprietary notices. No part of the Platform may be copied, reproduced, republished, uploaded, posted, publicly displayed, encoded, translated, transmitted, or distributed in any manner or for any commercial purpose without our express prior written consent. All trademarks, service marks, trade names, logos, and trade dress, whether registered or unregistered (collectively the “**Marks**”) that appear on the Services are proprietary to us or such Marks' respective owners. You may not display or reproduce Marks other than with our prior written consent. You may not remove or otherwise modify any trademark notices from any content. The Marks are protected by trademark, trade dress, copyright, and various other intellectual property rights and unfair competition laws. In addition, all page headers, custom graphics, button icons, and scripts are

our trademarks, service marks, trade names, and/or trade dress of, and may not be copied, imitated, or used, in whole or in part, without the prior written permission of Company.

9. **Indemnity.** You agree to defend, indemnify, and hold us, our affiliates and each of our and our affiliate's officers, directors, employees, agents, successors, and assigns harmless from and against any and all damages, losses, costs or expenses (including reasonable legal fees) that we incur that results or arises from, or are alleged to result or arise from: (a) your breach of these Terms, including any Third Party Service terms and conditions; (b) your use of the Service in a manner that violates applicable law, or your violation of any law rule, regulation, code, statute, ordinance or order of any governmental and quasi-governmental authorities, including, without limitation, all regulatory, administrative and legislative authorities; (c) your violation of any third party's rights (including intellectual property right, privacy rights, rights in confidential information); or (d) your misrepresentations, or negligent, willful, fraudulent or intentional acts or omissions.
10. **Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, WE (AND OUR PARENTS, AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUPPLIERS, LICENSORS, AND THIRD-PARTY PARTNERS) DISCLAIM AND WILL NOT BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL, EXEMPLARY, MULTIPLIED OR CONSEQUENTIAL DAMAGES, LOSSES OR FAILURE TO REALIZE EXPECTED RESULTS, INCLUDING, WITHOUT LIMITATION, ARISING OUT OF OR IN CONNECTION WITH ANY UNAVAILABILITY, NONPERFORMANCE, ERRORS, OMISSIONS, VIRUSES OR MALICIOUS CODE, OR FAILURE TO ACHIEVE ANY RESULT. THESE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF THEIR ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN LIABILITIES OR DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL OUR AGGREGATE LIABILITY, OR THE AGGREGATE LIABILITY OF OUR AND OUR PARENTS, AFFILIATES, SUBSIDIARIES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUPPLIERS, LICENSORS, AND THIRD-PARTY PARTNERS, WHETHER RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER LEGAL OR EQUITABLE THEORY, EXCEED THE GREATER OF (A) THE TOTAL FEES PAID BY YOU UNDER THESE TERMS IN THE SIX MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM; OR (B) \$100.

**NOTWITHSTANDING THE FOREGOING, WITH RESPECT TO THE SERVICES THAT WE PROVIDE AS A REGISTERED INVESTMENT ADVISOR, THE LIMITATION OF LIABILITY PROVISIONS IN THE ADVISORY AGREEMENT APPLY TO SUCH SERVICES IN LIEU OF THIS PROVISION.**

11. THE SERVICES AND THE PLATFORM ARE PROVIDED "AS IS" AND WITH ALL FAULTS. WE MAKE NO REPRESENTATION OR WARRANTY WITH RESPECT TO THE SERVICES, WHETHER EXPRESS OR IMPLIED, AND EXPRESSLY DISCLAIM ALL WARRANTIES, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. WE SPECIFICALLY DISCLAIM LIABILITY FOR (A) ANY LOSS OF USE OF TECHNOLOGY, LOSS AND CORRUPTION OF DATA, OR ANY COSTS ASSOCIATED WITH SYSTEM OR DATA RECOVERY; (B) ANY LIABILITY RESULTING FROM ERRORS IN INSTRUCTIONS, SERVICE BULLETINS, DIAGRAMS, PARTS IDENTIFICATION, OR PARTS DESCRIPTIONS; (C) ANY THIRD PARTY CLAIMS; (D) DELAYS, INTERRUPTIONS, SERVICE FAILURES, OR OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET, ELECTRONIC COMMUNICATIONS, OR OTHER SYSTEMS OUTSIDE OUR REASONABLE CONTROL; (E) ANY LIABILITY ARISING FROM YOU OR YOUR USERS USE OF THE SERVICES IN VIOLATION OF LAW OR THESE TERMS; (F) LIABILITY ARISING OUT OF ANY THIRD PARTY SERVICE, THIRD PARTY DATA OR RESULTANT DATA; (G) LIABILITY FOR ANY INVESTMENT, INVESTMENT STRATEGY, FINANCIAL RESULTS, FINANCIAL STRATEGY OR FINANCIAL PERFORMANCE, OR ANY OTHER RECOMMENDATION MADE BY THE SERVICE. THE SERVICES MAY CONTAIN TYPOGRAPHICAL ERRORS OR INACCURACIES AND MAY NOT BE COMPLETE OR CURRENT.

**PAST PERFORMANCE IS NOT A GUARANTEE OF FUTURE SUCCESS AND RETURNS IN ANY PERIOD MAY BE FAR ABOVE OR BELOW THOSE OF A PREVIOUS PERIOD. NO REPRESENTATION IS BEING MADE THAT ANY INVESTMENT WILL OR IS LIKELY TO ACHIEVE PROFITS OR LOSSES SIMILAR TO THOSE ACHIEVED IN THE PAST, OR THAT SIGNIFICANT LOSSES WILL BE AVOIDED. INVESTING INVOLVES RISK AND INVESTMENTS MAY LOSE VALUE.**

YOU AGREE THAT ANY CLAIM YOU MAY HAVE ARISING OUT OF OR RELATED TO YOUR RELATIONSHIP WITH THE COMPANY MUST BE FILED WITHIN ONE (1) YEAR AFTER SUCH CLAIM AROSE; OTHERWISE, YOUR CLAIM IS PERMANENTLY BARRED.

12. **Disputes.** To the maximum extent permitted by law, each of us agrees that any and all disputes, whether arising under any legal or equitable theory and given the broadest meaning enforceable under law arising out of or relating in any way to these Terms, your access to or use of the Platform or the Services, any communications you receive from us, any products sold or distributed by us, your account, your use of the Service (each a "**Dispute**") will be resolved exclusively and finally by a single arbitrator using binding arbitration pursuant to the Arbitration Rules & Procedures of JAMS then applying ("**JAMS**"), as further detailed in this Section 12 ("**Arbitration Agreement**"). The only exception to the Arbitration Agreement is that you or the Company may seek equitable relief in court for infringement or other misuse of intellectual property rights (such as trademarks, trade dress, domain names, trade secrets, copyrights, and patents). You may reject this Arbitration Agreement by providing us with written notice of such rejection within 30 days of your first access to the Services or of the date a change to this Arbitration Agreement became effective. This written notice must be provided either (a) by mail or hand delivery to our registered agent for service of process, c/o [Athena Advisory, Inc. 201 W. 5<sup>th</sup> Street Ste 1100 Austin, TX 78701]; or (b) by email from the email address associated with your account to [[legal@advicebyathena.com](mailto:legal@advicebyathena.com)]. In order to be effective, the notice must include your full name and clearly indicate your intent to reject changes to this Arbitration Agreement. If you opt-out of this Arbitration Agreement, all other parts of these Terms will continue to apply to you. Opting out of this Arbitration Agreement has no effect on any other arbitration agreements that you may currently have or may enter in the future with us, including in the Advisory Agreement. **YOU AGREE THAT DISPUTES WILL ONLY BE CONDUCTED ON AN INDIVIDUAL BASIS AND NOT IN A CLASS, CONSOLIDATED, REPRESENTATIVE, OR SIMILAR ACTION, EXCEPT AS PROVIDED BELOW. YOU AND THE COMPANY HEREBY WAIVE ANY CONSTITUTIONAL AND STATUTORY RIGHTS TO SUE IN COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR A JURY.** Arbitration will be administered by JAMS in accordance with the JAMS Arbitration Rules & Procedures (the "**Rules**") then in effect, except as modified by this Arbitration Agreement. The Rules are available at [www.jamsadr.com](http://www.jamsadr.com). Notwithstanding any choice of law or other provision in the Terms, the parties agree and acknowledge that this Arbitration Agreement evidences a transaction involving interstate commerce and that the Federal Arbitration Act, 9 U.S.C. §1 et seq. ("**FAA**"), will govern its interpretation and enforcement and proceedings pursuant thereto. It is the intent of the parties that the FAA and Rules shall preempt all state laws to the fullest extent permitted by law. If the FAA and Rules are found to not apply to any issue that arises under this Arbitration Agreement or the enforcement thereof, then that issue shall be resolved under the laws of the state of Texas. A party who desires to initiate arbitration must provide the other party with a written demand for Arbitration as specified in the Rules. If the parties are unable to agree upon an arbitrator within seven (7) days of delivery of the demand for Arbitration, then JAMS will appoint the arbitrator in accordance with the Rules. If the claim does not exceed \$10,000, then the arbitration will be conducted solely on the basis of documents we submit to the arbitrator. If the claim exceeds \$10,000, a party's right to a hearing will be determined by the Rules. The arbitration will be conducted in English, closed to the public, and confidential. Subject to the Rules, the arbitrator will have the discretion to direct a reasonable exchange of information by the parties, consistent with the expedited nature of the arbitration. All documents and information exchanged by the parties during arbitration are confidential information and will be kept confidential. Your responsibility to pay any filing, administrative and arbitrator fees will be as set forth in the Rules. Judgment on the arbitration award may be entered in any court having competent jurisdiction to do so. An arbitrator's decision shall be final and binding on all parties. The arbitrator shall have exclusive authority to resolve any Dispute, including, without limitation, disputes arising out of or related to the interpretation or application of the Arbitration Agreement, including the enforceability, revocability, scope, or validity of the Arbitration Agreement or any portion of the Arbitration Agreement. Each party shall bear its own attorneys' fees and costs in arbitration unless the arbitrator finds that either the substance of the Dispute or the relief sought in the demand was frivolous or was brought for an improper purpose (determined by the standards set forth in Federal Rule of Civil Procedure 11(b)). If any portion of this Arbitration Agreement is found to be unenforceable or unlawful for any reason, (a) the unenforceable or unlawful provision shall be severed from these Terms; (b) severance of the unenforceable or unlawful provision shall have no impact whatsoever on the remainder of the Arbitration Agreement or the parties' ability to compel arbitration of any remaining claims on an individual basis pursuant to the Arbitration Agreement; and (c) to the extent that any claims must therefore proceed on a class, collective, consolidated, or representative basis, such claims must be litigated in a civil court of competent jurisdiction and not in arbitration, and the parties agree that litigation of those claims shall be stayed pending the outcome of any individual claims in arbitration. These Terms, and the Arbitration Agreement, are governed by and construed in accordance with the laws of the State of Texas without giving effect to any choice or conflict of law provision or rule. All litigation, court proceedings, arbitration proceedings, mediation proceedings, lawsuits, court hearings, and other hearings or actions initiated in connection with the Terms or any Services must and will be venue exclusively in Austin, Texas.

- 13. Severability; No Waiver.** If any term or provision of these Terms is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of these Terms or invalidate or render unenforceable such term or provision in any other jurisdiction. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in these Terms, no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from these Terms will operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.
- 14. Illegal Activity.** If we believe your (or any other users) actions are or could be illegal, we may report those actions to law enforcement authorities. We will cooperate with law enforcement agencies in any investigation of alleged illegal activity on the Platform or in connection with the access or use of the Services.
- 15. Modifications.** We may make modifications or changes to these Terms. If we make a modification that we deem material, we will provide notice to you (email notice being sufficient) which will be effective 30 days following our notice of the modification and, if you do not agree to the modified terms, you may object to the modification by providing us with notification of your objection (in reasonable detail) during such 30-day notice period. Upon receipt of your objection, we may choose to modify the Terms that apply to you such that they resolve your objection, or we may enter into good faith negotiations regarding your objection in an attempt to resolve your objection. If you fail to provide us with notice of your objection within such period, you will be deemed to have accepted these Terms as modified. We may make non-material changes to these Terms by posting the revised version at the URL where these Terms are available.
- 16. No Third-Party Beneficiaries.** These Terms are entered into for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or will confer upon any third party any legal or equitable right, benefit, or remedy of any nature or by reason of these Terms.
- 17. Entire Agreement.** These Terms together with the Service Specific Addendum and any other documents expressly incorporated into these Terms constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter.



## SERVICE SPECIFIC ADDENDUM

### BROKERAGE AND ADVISORY SERVICES

**Brokerage.** Brokerage services are offered by Apex Fintech Solutions, LLC (“Apex”), a broker dealer and registered adviser registered with the Securities and Exchange Commission (“SEC”). For information about Apex’s brokerage services, please view [FORM CRS](#) and the [Apex Disclosures](#). Brokerage services and securities products are offered by APEX, Member FINRA & SIPC. YOU MAY FIND MORE INFORMATION ABOUT APEX FINRA’S BROKERCHECK. All investments involve risks, including the loss of principal invested. Past performance of a security does not guarantee future results or success. Before investing, consider the funds’ investment objectives, risks, charges, and expenses. Contact Apex or visit the ETF sponsor's website for a prospectus or, if available, a summary prospectus containing this information. Please read it carefully. Apex uses an algorithm to manage individual client accounts. The algorithm may rebalance client accounts without regard to market conditions or on a more frequent basis than you might expect and may not address prolonged changes in market conditions.

**Advisory Services.** We provide investment advisory services in accordance with the Investment Advisory Agreement available at [\[Investment Advisory Agreement\]](#) (“**Advisory Agreement**”). Pursuant to the Advisory Agreement, you agree to receive certain internet-based and algorithmic financial action and/or implementation services from us via the Platform, as described therein. As part of the Services, our algorithm assesses information that you provide as well as information that we receive from Third Party Services to assess your financial condition, cash flow, goals, risk tolerance, future income needs, liquidity requirements, investment time horizon, and other information that is relevant to your financial life. This information will be used to deliver financial analyses and recommendations through the Platform. We may update or modify the Advisory Agreement by providing at least 30 days’ notice to you, as described in the Advisory Agreement.

### FINANCIAL WELLNESS, DEBT MANAGEMENT, REFINANCING & CREDIT MANAGEMENT

We offer tools that allow you to view, aggregate, and manage your information from multiple accounts. The information compiled includes accounts held at external financial institutions, such as bank accounts, credit accounts, or loan service accounts. By using our Service, you authorize us to obtain information from these Third Party Services and use it as described in these Terms and the Privacy Policy. Our Services, including the use of these tools, are intended to only provide educational services and are not intended to provide any financial planning, investment, tax, or retirement planning services or advice. When using these Services, we do NOT undertake any review of your account information to provide you with any advice or guidance. We do not make any determination about the suitability or appropriateness of any transactions you might undertake at using our Service or elsewhere. If you elect to use our Services, you are fully and solely responsible for your accounts and agree that our only role is to aggregate compile data to information for presentation to you.

**Credit Information.** We offer you the opportunity to obtain your credit score from a credit reporting agency for the purpose of allowing you to monitor your credit score, and for analyzing your overall financial health. Obtaining your credit score also allows us to offer you additional tools related to your financial health. By using the Service, you authorize and instruct us to obtain your full credit reporting information from a credit reporting agency on a regular recurring basis. We will obtain this information and retain this information in accordance with our [Privacy Policy](#). We do not, however, monitor your credit report for activity, identify theft, or any other actions. The credit score and other information that we receive from a credit reporting agency is for your own use and education and is not financial advice. We may present simulations or hypothetical estimates of credit score changes, and these are intended for your educational purposes only. We may use your credit information to provide offers to you from third parties, we may use your credit information for statistical analysis purposes. You may obtain your credit report information without using our Service and you have the right to request a free credit report from AnnualCreditReport.com. **WE ARE NOT A CREDIT REPORTING AGENCY. WE ARE NOT A CREDIT REPAIR COMPANY. WE DO NOT AND WILL NOT UNDERTAKE ANY CREDIT REPAIR ON YOUR BEHALF.**

**Debt Management.** Using information provided by Third Party Services, we may provide guidance related to credit card, lenders or loan payments. This information is provided for your education only. We may recommend certain loan products from Third Party Services based on information that we receive from Third Party Services and from you. We are not a lender and do not make loans. We also do not represent that any loan product is suitable for your needs. Before pursuing any specific guidance or advice, you must review the terms and conditions related to each Third Party Service product.

**Third Party Financial Products.** The Services may recommend third party financial products and services based upon the information that you provide or the information that Third Party Service providers provide to the Services. In some cases, the product or service offered may be based on the personally identifiable information that you provide. You consent to our

sharing of personally identifiable information with these Third Party Services so that we may provide you with tailored solutions based on the analysis of your information. We do not represent that any third party financial product is suitable for your needs. You are responsible for reviewing the third party financial product terms and conditions and determining whether or not such product is suitable for your needs. The specific offers made available in the Services are subject to change by the Third Party Service provider. We do not guarantee that the rates, amounts or other terms of any offer will be made available to you as it was presented to you in the Services. You will be required to apply directly with the applicable Third Party Service provider.

**Payments.** If you use the Services to send or receive payment, we use Stripe to process payment transactions. You agree to the [Stripe End User Terms of Service](#), as applicable.

**Account Connection.** The Services use Plaid to view and receive information about your accounts for various purposes, including cash management and planning. For use of Plaid services, you agree to the Plaid [End User Services Agreement](#) and [End User Privacy Policy](#). By using Plaid, you expressly authorize us to retrieve your bank account and routing numbers, as well as your current bank balance and certain transaction history (“**Account Information**”) via Plaid. We will not store your username and password for your bank account; Plaid will provide us with an access token that exclusively allows us to retrieve your Account Information.

**Investment Data.** The Services may offer price quotes on your investment holdings, news stories, and other investment or stock related information. Information may be delayed. Market quotes and other information are provided for general informational and educational purposes only and are not intended to be relied upon as investment advice. You are responsible for your investment research and investment decisions, and prior to the execution of a securities trade, you should always consult with your broker or other financial representative to verify securities pricing information. Neither we, nor any Third Party Service is liable for any errors or delays in the content or for any actions taken in reliance thereon.

**AI Recommendations.** We use artificial intelligence models to provide certain recommendations. We do not input personally identifiable information about you into artificial intelligence models. These models make recommendations based on information that we have used to train the model. The recommendations may not be suitable for your unique circumstances.