



## Website Terms of Use Agreement

Effective as of 8/15/2016

### 1. Basic Service User and Subscribed Basic User

As a user of our public websites, [www.etfmi.com](http://www.etfmi.com) and [www.etfmomentuminvesting.com](http://www.etfmomentuminvesting.com), you agree and acknowledge that you are not a client of the Registered Investment Advisor, ETF Momentum Investing, LLC (ETFMI). You may only become an advisory client of ETFMI after both you and an officer of ETFMI have fully executed the ETFMI Investment Advisory Agreement. For the purpose of this Agreement, your relationship to the investment advisor is as either a “Basic Service User” of websites containing publicly disseminated information, educational materials and portfolio recommendations or should you choose to provide additional information (such as your email address) to ETFMI for the purpose of accessing additional web content you shall at that point become a “Subscribed Basic User”.

### 2. Limits to Extent of Service

By using any of our websites you acknowledge and agree that you understand the limited nature of the of services offered by ETFMI. The information that is disseminated on our websites and through email (our Content) is designed to be educational and are limited to ETF rotational strategies that are derived from our proprietary price momentum algorithm (our Algorithm). ETFMI does not and will not offer holistic financial advice. The portfolios suggested are appropriate only for experienced investors with long time horizons who are comfortable with placing frequent trades and who realize that they could lose substantial amounts of their investment, including their entire investment, by trying to follow these strategies in their own portfolios. Further, let it be emphasized, “trend following” or “momentum investing” is intended to be a component of your overall investment strategy and not your sole investment strategy. If you do not understand how these strategies may fit into your personal financial picture, do not act on any information from our service without first seeking customized professional financial advice related to the suitability of these investment strategies for your own personal financial situation. By using information on our website you agree and understand that the ETFMI does not modify portfolios under any circumstances and is not taking into consideration age, risk tolerance, market conditions or any factors relating to you as an individual investor, it is therefore your own responsibility to determine if the investment recommendations are suitable for you. ETFMI does not provide legal, tax or financial planning advice.

You understand and agree that: (1) we are providing you with the Basic Service and the Subscribed Basic Service free of charge for your own individual and personal use and not for any other purpose; (2) we will not place any transactions on your behalf; (4) we do not provide ongoing supervision of your assets; (5) you alone will determine whether to implement the recommendations made through the Basic Service, Subscribed Basic Service and/or otherwise rely on information that appears on our website; and (6) you are fully responsible for making your own investment decisions.

### 3. General Risk Factors

Investing in securities involves risk, including the risk that you could lose your entire investment. While the trend following algorithms we offer are designed to meet the stated investment objective of capital appreciation, there is no certainty that such investment objectives will be met through implementation of the recommendations. Past performance is no guarantee of future results. Our portfolios are appropriate only for investors that can endure high levels of portfolio volatility and can financially withstand losing substantially all of their investment.

### 4. Specific Risk Factors

Our recommendations are highly reliant on the accurate performance of proprietary Algorithms and the technology that generates these Algorithms. A malfunction or failure in either could cause you to experience losses, some or all of which could be significant. The Algorithms employ a number of quantitative models that involve assumptions based upon a limited number of variables that may be extracted from complex financial markets or instruments that they intend to replicate. Any one or all of

these assumptions, whether or not supported by past experience, could prove over time to be incorrect, which could result in major losses. The recommendations we provide and other information that appears on our website may be time sensitive, especially during times of significant market volatility. We rely on third parties – often to a material extent – for the provision of market statistics, fund details, performance and related information and, trade execution capabilities. Although we believe these third party service providers are generally reliable, there could be errors that are beyond our control in the information and/or services they provide and such errors could compromise the quality of our recommendations and otherwise compromise our ability to provide accurate or timely updates to the websites or email distributions. Further, some or all of these agreements may allow the third party service provider to terminate the agreement for any reason or no reason at all with no advance notice to us. In such instances, our ability to perform under this Agreement could be materially compromised.

## **5. Availability to Third Party**

You will not directly or indirectly sublicense, resell, rent, lease, transfer, assign, time share or otherwise make the Basic Service and/or the Subscribed Basic Service or our Content available to any third party.

## **6. Eighteen Years of Age**

You acknowledge and agree that you are a natural person who is at least 18 years old and that your use of the Basic Service and/or the Subscribed Basic Service does not violate any applicable law or regulation.

## **7. Our Intellectual Property**

You acknowledge and agree you will not, directly or indirectly: (i) decipher, decompile, disassemble, reverse engineer or otherwise attempt to derive any source code or underlying ideas or algorithms of any part of the Basic Service and/or the Subscribed Basic Service, except to the limited extent applicable laws specifically prohibit such restriction, (ii) modify, translate, or otherwise create derivative works of any part of the Basic Service and/or the Subscribed Basic Service or any other aspect of our website, (iii) copy, distribute, or otherwise transfer any or all of the rights that you receive under this Agreement, or (iv) use or access the Basic Service, the Subscribed Basic Service, our website or Content in order to build a competitive product or service. You represent and warrant that you will abide by all applicable local, state, national and international laws and regulations when using the Basic Service and/or the Subscribed Basic Service and our website.

You agree that the Content that you obtain when using the Basic Service and/or the Subscribed Basic Service or as a user of the website shall remain the sole property of ETFMI. Such Content is or may be protected by copyrights, trademarks, service marks, patents, trade secrets or other proprietary rights and laws. You agree to abide by all copyright notices, information, and restrictions contained in any Content accessed through our website. You agree not to, directly or indirectly sell, license, rent, modify, distribute, copy, reproduce, transmit, publicly display, publicly perform, publish, adapt, edit, create derivative works from, or otherwise exploit any Content or any other submissions or other proprietary rights not owned by you without the consent of the respective owners or other valid right. You may, to the extent our website or a website of a third party (where applicable) expressly authorizes you to do so, download or copy Content, and other items displayed on the applicable website for download, for personal use only, provided that you maintain all copyright and other notices contained in such Content. You agree not to store any significant portion of any Content in any form. Copying or storing of any Content for other than personal, noncommercial use is expressly prohibited without prior written permission from ETFMI.

## **8. Disclaimers**

We make no representations concerning any Content contained in or accessed through our website, and we will not be responsible or liable for the reliability, timeliness, quality, suitability, availability, accuracy, completeness, copyright compliance, legality or decency of any Content. You should independently verify all Content and other information that you access through our website. By accessing either site, you agree that we shall not be responsible for (1) any Content, (2) any person's reliance on any such Content, whether or not correct, current and complete, or (3) the consequences of any action that you or any other person takes or fails to take based on any Content. Your use of or reliance on any Content is at your own risk. The Content is provided "As Is" and "As Available" and is without warranty of any kind, express or implied, including, but not limited to, the implied warranties of title, non-infringement, merchantability and fitness for a particular purpose, and any warranties implied by any course of performance or usage of trade, all of which are expressly disclaimed. We and our directors, employees, agents, suppliers, partners and content providers do not represent and/or warrant that: (i) the Basic Service, the Subscribed Basic Service and/or Content will be secure or

available at any particular time or location; (ii) that the use of the Basic Service, the Subscribed Basic Service, and/or Content will be secure, timely, uninterrupted or error-free.

#### **9. Termination and Refusal**

You may terminate your access to our Basic Service and/or Subscribed Basic Service and to any other password-protected portions of ETFMomentumInvesting.com at any time simply by sending us an e-mail specifying that you wish to terminate your access to support@etfmi.com. The termination will take effect promptly upon our receipt of your email. We may, in our sole discretion refuse your application to subscribe to the Subscribed Basic Service or otherwise access ETFMomentumInvesting.com; or terminate your access to the Subscribed Basic Service and/or password protected portions of ETFMomentumInvesting.com.

#### **10. Alerts**

As part of the Subscribed Basic Service, you have elected to receive various types of e-mail alerts. You can customize, modify or de-activate alerts at any time by emailing [info@etfmi.com](mailto:info@etfmi.com). However, we may still send you various communications regardless of whether you have de-activated alerts, especially when required by industry regulations. We may, in our sole discretion, modify the alerts that are available or stop providing them. Because alerts are not encrypted, we will never include your password in them. However, alerts may include your ETFMomentumInvesting.com User ID and/or information about your portfolios. Anyone with access to your email will be able to view the content of these alerts. You understand that alerts may be delayed or omitted by a variety of factors. We will endeavor to provide alerts in a timely manner but we do not guarantee the delivery or accuracy of any alert. You agree that we will not be liable for any delays in delivery or failure to deliver any alert; for any errors in the content of an alert; or for any actions taken or not taken by you or any third party in reliance on or in response to an alert.

#### **11. Links to Third Party Sites**

As a convenience to you, you may be able to link to other websites or resources on the Internet, and other websites or resources may contain links to our websites. When you access third party websites, you do so at your own risk. These other websites are not under our control, and you acknowledge that we are not responsible or liable for the content, functions, accuracy, legality, appropriateness or any other aspect of such websites or resources. The inclusion of any such link does not imply endorsement by us or any association with the linked third party site, its sponsor, or any of the policies, activities, products, or services offered on the third party site or by any advertiser on the third party site.

#### **12. Entirety of Agreement**

To access any Content or website offered by ETFMI, you must acknowledge and agree to each section of this agreement.