



## **CLIENT AGREEMENT**



## Table of Contents

<b>Contents</b>	<b>Page</b>
1 Our appointment and functions.....	2
2 Client Profile .....	2
3 Power of Attorney.....	3
4 Account, custody and brokerage arrangements.....	4
5 Use of intermediaries .....	7
6 Currency conversion .....	7
7 Set-off and Lien.....	7
8 Representations and warranties .....	8
9 Conflicts.....	10
10 Statements and other documents.....	11
11 Fees, charges and expenses.....	12
12 Losses and liabilities .....	13
13 Notices concerning the platform or services.....	14
14 Personal information .....	14
15 Anti-money laundering and customer verification.....	15
16 Compliance with Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS) reporting requirements.....	15
17 Termination .....	16
18 Dormant accounts and unclaimed assets .....	19
19 No waiver.....	19
20 Electronic records .....	19
21 Delegates .....	20
22 Confidential information.....	20
23 Recordings.....	21
24 Complaints.....	22
25 General.....	22
26 Definitions.....	24



Risk Disclosure Statement .....	1-i
Terms and Conditions of Platform Use .....	2-i
Privacy Policy .....	3-i
Trading Services Terms.....	A-i
1 General.....	A-i
2 Scope of Trading Service .....	A-i
3 Orders and instructions relating to the Trading Service .....	A-ii
4 Market data.....	A-iii
5 Reports, summaries and analysis by Syfe .....	A-iv
6 Risks.....	A-v
7 Trading limits and restrictions .....	A-v
8 Sale of Authorised Investments .....	A-vi
9 Facilitation of Custody Service .....	A-vi
10 Payment of Dividends, Distributions and Interest .....	A-vii
11 Exercise of any right and power .....	A-vii
12 Delivery of Authorised Investments.....	A-viii
13 Return of Authorised Investments.....	A-viii
14 Orders and Instructions relating to the Custody Service.....	A-viii



## General Terms

The words “we”, “us”, “our” or any of their derivatives in this Agreement refer to Syfe Australia Pty Ltd (ABN 82 655 611 779) (“**Syfe**”) and its successors and any novatee, assignee, transferee or purchaser of Syfe's rights and/or obligations hereunder and any reference to Syfe includes a reference to such successor, novatee, assignee, transferee or purchaser.

The words “you”, “your”, “yours” or any of their derivatives in this Agreement refer to the person who opened the Account and/or is using our Services and shall include, as the context may require, personal representatives (as the case may be). We have been appointed as an authorised representative (Authorised Representative No. 001295306) of Sanlam Private Wealth Pty Ltd (ABN 18 136 960 775, AFSL No 337927) (“**Sanlam**”) to provide the following kinds of financial services to retail and wholesale clients: (1) provide financial product advice and (2) deal in a financial product on behalf of another person by applying for, acquiring, varying or disposing of a financial product. We will maintain all governmental and regulatory licences, registrations and approvals required by law as may be necessary to continue to perform our obligations under this Agreement.

These General Terms, together with all Annexes, Schedules, disclosures, terms, conditions, rules and regulations included on our Platform or website, as the same may be amended, modified, supplemented or replaced from time to time (collectively the “**Agreement**”), shall apply to and govern each Account currently requested for, all Accounts opened and currently maintained, and all Accounts subsequently opened or established with us and/or our Delegates and in respect of all Transactions and Services. For the avoidance of doubt, each of the Schedules shall apply only in respect of the Services that you have signed up for under the Application Form applicable to such Service.

If, in respect of a given Account, Transaction or Service, any additional or specific terms are stated to apply, such additional or specific terms shall apply (as supplemented by and read together with this Agreement) in respect of that Account, Transaction or Service, and shall form part of this Agreement.

By completing the Application Form, agreeing to open the Account, maintaining or operating an Account, issuing any Instructions, entering into any Transaction or accessing, acquiring or using any Service from, with or through us, you acknowledge to us that you have received, read and understood, and agree to and undertake to be bound by, the Agreement and all its contents, and acknowledge and accept the risks and other matters disclosed in the Agreement, as applicable to the Account, Instructions, Transaction and Service accessed, acquired or used. You also acknowledge that you have been provided with access to, and had the opportunity to read, our Financial Services Guide (which will be made available to you on our website). Your acknowledgements, acceptance, agreements and undertakings herein shall be conditions precedent to Syfe’s performance of its obligations under this Agreement.

If there is any conflict or inconsistency between the provisions of this Agreement and any additional or specific terms in respect of the relevant Account, Transaction or Service, the latter shall prevail but only to the extent of such conflict or inconsistency.

Capitalised terms used but not defined anywhere in this Agreement are defined in **Clause 26**.

The headings in this Agreement are inserted for convenience only and shall not affect the construction of this Agreement. Expressions in the singular form shall include the plural and vice versa, and all references to the masculine gender shall include the female gender and vice versa.

References in this Agreement to any agreement or document including this Agreement shall include such agreement or document as from time to time may be amended, modified, varied, novated,



supplemented or replaced, unless the context shall otherwise require. References to “Clauses”, “Annexes” and “Schedules” are unless indicated otherwise references to the clauses, annexes and schedules to this Agreement.

## **1 Our appointment and functions**

- 1.1** This Agreement constitutes a legal agreement between us and you. In order to use the Services, you must agree to the terms of this Agreement that are set out below. By electronically accepting or acknowledging this Agreement, using the Services or signing up for an Account with us, you represent and undertake, and are deemed to have read and accepted this Agreement.
- 1.2** You appoint us to provide you with Services through our Platform, subject to any addition, modification, suspension or termination of such Services in accordance with **Clause 25.6**, including the execution only Trading Services and/or Cryptocurrency Trading Services and (where you use the Trading Services and/or the Cryptocurrency Trading Services) arranging for you to receive the Custody Services. We may at our absolute discretion provide alternative means by which you may enjoy the Services outside the Platform, which will be subject to such terms and conditions as we may notify you. For the avoidance of doubt, the Cryptocurrency Trading Services will only be made available to you upon your separate acceptance of the Cryptocurrency Trading Services Terms.
- 1.3** You authorise us to perform all acts (on your behalf or otherwise) at any time which are in our sole opinion necessary or desirable to permit us to perform our duties and exercise our rights and discretions hereunder and to comply with the provisions of any law or obligation (including any requirement or regulatory expectation imposed on us to disclose information relating to the Account to any taxation, governmental, regulatory, statutory or administrative body) to which we may be subject in relation to this Agreement or the Account.
- 1.4** This Agreement shall be effective upon:
- 1.4.1** us completing the necessary account verification procedures on you and our satisfaction with the outcome of such procedures;
  - 1.4.2** your receipt of a digital confirmation notice from us confirming the acceptance of your use and access of the Platform, the Account and/or the Services; and
  - 1.4.3** your satisfaction of such other criteria as we may determine from time to time.
- 1.5** For the avoidance of doubt, we reserve the right to refuse any application to open an Account or reject any request to provide Services to any prospective client.
- 1.6** The relationship between you and us is governed by this Agreement. This Agreement shall apply to and govern your Account with us and all Transactions and Services.

## **2 Client Profile**

- 2.1** You shall be taken to have accepted the terms and conditions of this Agreement upon your first access and use of your Account and/or the Services.
- 2.2** You acknowledge and agree that it shall be your duty and you hereby undertake, without the need to be prompted or being so requested to do so by us, that you shall promptly notify us in writing of any change in:



- 2.2.1 your particulars, circumstances, and status, including any change in citizenship, residence, tax residency, address(es) on record, telephone and facsimile numbers, and email addresses;
- 2.2.2 (where applicable) your constitution, shareholders, partners, directors or company secretary, and the nature of your business;
- 2.2.3 any information and/or document relating to any Account or to this Agreement or the Application Form as supplied to us.

You undertake to provide any relevant supporting documents as we may request for verification of such information updated. If you fail to comply with this Clause, we shall be entitled to take such action or refuse to take any action as we may deem fit (including but not limit to suspending or closing the Account) and we shall not be responsible for any resulting loss to you. Any change will be effective only upon our receipt of your notification and after verification where we deem necessary.

- 2.3 The Account which we grant to you also belongs exclusively to you and is not transferable to any other person.
- 2.4 You undertake not to register for more than one individual Account or register an individual Account on behalf of any person other than yourself unless otherwise approved by us.
- 2.5 Your executor or administrator shall be the only person recognised by us in the event of your death. Upon your death, we are entitled to retain any of your assets, and any monies payable to or credit in any Account until such time that a grant of probate or letters of administration are produced by your executor or administrator.

### **3 Power of Attorney**

- 3.1 You hereby authorise us and such persons duly authorised by us severally to act as your attorney (with full rights of substitution) with full authority to be your true and lawful attorney and to in your name do on your behalf all things you could have done (including to execute and deliver all such documents, agreements and instruments and to otherwise perfect and do all such acts and things which are necessary to give full effect to any of the provisions and powers contained herein) for the purposes of:
  - 3.1.1 carrying out any Transactions for your Account or any of your Instructions, or providing any Service to you;
  - 3.1.2 discharging any of our obligations to you under this Agreement;
  - 3.1.3 where you use the Trading Services, appointing a Custodian (where you have not done so yourself) and liaising with the Custodian to provide Custody Services to you pursuant to that Custodian's Custody Terms; and/or
  - 3.1.4 doing anything which in our opinion is necessary or desirable to preserve our rights under this Agreement.
- 3.2 You undertake to ratify and confirm, and hereby ratify and confirm, all and whatever acts and things that we shall do or cause to be done pursuant to this power of attorney on your behalf.

## **4 Account, custody and brokerage arrangements**

- 4.1** You will deposit monies directly into a trust account (with an authorised deposit-taking institution) as specified by us (and in accordance with Applicable Laws) and acknowledge and consent to the fact such monies deposited into the trust account will be commingled with monies belonging to our other clients. The risks of this commingling are that there are limited ways to determine the intent of clients involved on the mutualisation of risks in view of the constant fluctuation of the aggregate balance in such account, and to account separately for each of our clients' respective interest (if any) due on their respective cash balances in the trust account as on an aggregate basis. In the event of insolvency of the trust account custodian, you understand that you may not be able to fully recover your monies.
- 4.2** You agree and acknowledge that we will transfer or procure the transfer of the funds from the trust account to the Brokers appointed from time to time (including any approved clearing house, recognised clearing house, member of a clearing facility or member of an organised market) to execute, clear or settle the trades and the trades will then be settled with the Broker's custodian. In the event of insolvency of such Brokers with whom your funds are held, you understand that you may not be able to fully recover your monies. You further agree and acknowledge that we may transfer your funds to financial institutions of our choice to execute foreign exchange transactions and/or to be held on trust for you as deposits generally.
- 4.3** You may deposit additional funds in the trust account at any time provided that such deposits are notified to us prior to deposit. We shall be entitled to reject any deposits, at our sole and absolute discretion, for any reason or no reason.
- 4.4** You may withdraw from the Account at any time. Payment of the proceeds from the Account will generally be made to a bank account in your name and be made within seven (7) Business Days from the date which we received your request to withdraw or after the receipt of the relevant documentation and/or information needed for withdrawals as completed to our satisfaction, whichever is the later, or such longer period as we may determine in our absolute discretion, and particularly but not limited to situations where the realisation of the Account or the transfer of funds may be severely restricted. You also acknowledge that the potential performance of the Account depends upon the uninterrupted investment of capital, and that withdrawals could materially and adversely affect the potential performance of the Account.
- 4.5** You agree and acknowledge that:
- 4.5.1** you shall not be entitled to receive any monies representing any interest or returns earned in respect of funds that you have deposited into your Account, whether residing in the trust account or otherwise. Syfe may in return for the interest or returns waived and relinquished by you, in its sole and absolute discretion, pay to you interest or returns thereon of such amount or at such rate as Syfe may deem appropriate, net of its administrative fee for crediting such interest or returns into your Account;
  - 4.5.2** we shall only accept monies from you which are received from bank accounts or payment accounts belonging to you. If we are not satisfied that the monies deposited by you came from bank accounts or payment accounts belonging to you, we shall refund such monies to you with any interests, expenses or costs to be borne by you, subject to Applicable Laws;

- 4.5.3 when executing your withdrawal instructions, we shall only pay monies in the trust account belonging to you to bank accounts or payment accounts belonging to you. We reserve the right to withhold such payments if we are not satisfied that the monies will be paid to bank accounts or payment accounts belonging to you;
- 4.5.4 we will arrange for the Authorised Investments to be purchased through or by any of the Brokers as appointed from time to time;
- 4.5.5 where we accept sole and principal responsibility to the Broker for the executed Transaction, 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 obligations or responsibilities under this Agreement. Our foregoing right shall apply even though as between us and you, you may be in actual or anticipatory default. The foregoing indemnity in our favour is in addition to any other right that we may have (whether expressly provided as between us and you or implied by law);
- 4.5.6 in view of the fact that we may have accepted principal responsibility and/or liability to Brokers, you also acknowledge and consent to the fact that there is a risk that such Brokers may regard any Authorised Investments which we purchase or arrange to be purchased on your behalf, as investments which we purchase for ourselves or our other clients. This may in some instances result in prejudice to you. For example, there is a risk that the Brokers may attempt to use the Authorised Investments to satisfy our obligations or obligations of our other clients. You accept that this is a necessary risk of using the Services;
- 4.5.7 we and our appointed Broker(s) reserve the right of whether (or not) to provide any margin facility to you in respect of the Authorised Investments;
- 4.5.8 without prejudice to any other provision in this Agreement, you agree that:
  - (a) Authorised Investments purchased for you may be held by the Custodian in an omnibus account with the Broker or such other custodian, nominee, exchange and/or clearing house ("**Client Account**"), in accordance with Applicable Laws, aggregated with other Authorised Investments of our other clients. The Authorised Investments in the Client Account shall be segregated from the assets of Syfe and the Custodian and shall not form part of the assets of Syfe, the Custodian or such other custodian, nominee, exchange and/or clearing house's assets for the purposes of insolvency or winding-up. The Broker or such other custodian, nominee, exchange and/or clearing house may set-off from the Client Account against and in whole or partial payment of any sum or liability owed by us to them. While we will maintain records, as your Authorised Investments will be commingled with Authorised Investments of our other clients, your Authorised Investments may not be identifiable by separate records or certificates and you may potentially be exposed to the losses of other customers. Where as a result of such commingling and aggregation of the Authorised Investments certain entitlements to dividends, interest and other monies are payable in respect of the Authorised Investments, the Broker or such other custodian, nominee, exchange and/or clearing house has full discretion as to the allotment or distribution of such entitlements as amongst its customers;
  - (b) provided that we have selected or engaged such Broker, custodian, nominee, exchange and/or clearing house in good faith, we shall not be liable



to you for any and all loss suffered or incurred by you as a result of any act, omission or insolvency of such person. If the Broker, custodian, nominee, exchange and/or clearing house becomes insolvent, there is a risk that some or all of your Authorised Investments may not be recovered. Any shortfall in the Authorised Investments may be shared among you and the customers of such Broker, custodian, nominee, exchange and/or clearing house pro rata;

- (c) where Authorised Investments are denominated in a foreign currency, the Authorised Investments may be held with an entity which is licensed, registered or authorised to act as a custodian in the country or territory where the monies or assets in the trust account or Client Account are held and such omnibus account is maintained. In such cases, you understand that the laws and practices relating to custody accounts in the relevant jurisdiction may differ from the laws and practices in Australia. Such differences mean that your Authorised Investments may not enjoy the same level of protection as accorded to those that are held in Australia. Depending on the jurisdiction, this may affect your ability to recover the Authorised Investments deposited in the trust account or Client Account;
- (d) the Authorised Investments may be treated as fungible with other investments in the omnibus account and therefore, we are not obliged to deliver any specific Authorised Investments to you and may instead sell the Authorised Investments at your expense and transfer the credit balance to the relevant account;
- (e) for securities listed on a securities exchange, Authorised Investments purchased for you may be held by the Custodian in an omnibus account with the Broker, and through a Depository agent and the holding of securities is with the Central Depository account (“CDP”) and not in your name;
- (f) we may in our sole discretion liquidate or close out any of your positions in any Authorised Investment for any reason whatsoever, including but not limited to the relevant Authorised Investment being delisted or no longer offered or supported by Syfe, the Brokers, and/or custodians appointed from time to time (including any approved clearing house, recognised clearing house, member of a clearing facility or member of an organised market). We may in our sole discretion re-balance or adjust any asset allocations as decided by you in relation to your portfolios to accommodate any such liquidation or closing out of your positions; and
- (g) where securities are held by the Custodian in an omnibus account with the Broker, the Broker and the Custodians will be solely responsible for safekeeping the assets in the Account (and their documents of title) and will attend to the settlement of all Account transactions and to the collection of income receivables in respect of the Account;

- 4.5.9** where assets in the Client Account are held by the Broker or the Custodian, the Broker or the Custodian will be solely responsible for safekeeping the assets in the Client Account (and their documents of title) and will attend to the settlement of all Client Account transactions and to the collection of income receivables in respect of the Client Account;

**4.5.10** we may obtain trading and clearing memberships on exchanges, whether in Australia or elsewhere, and may at our sole and absolute discretion choose whether or not to rely on such trading and clearing memberships in providing the Services to you; and

**4.5.11** fees and expenses charged to you will be published on the website and we reserve the right to pass on amounts which are charged by the Broker to you, unless otherwise agreed between us and you.

**4.6** You acknowledge and agree that we are not responsible for the settlement of Account transactions or for ensuring that the Broker carries out any of its instructions but we shall provide reasonable assistance to monitor the Account transactions and ensure that they are settled accordingly by the Broker.

## **5 Use of intermediaries**

**5.1** You hereby acknowledge that we may use or engage Delegates (including a nominee, agent, Broker, custodian, fund manager, market-maker, exchange and/or other third party, which may include Syfe's affiliates), whether in Australia or elsewhere, as Syfe may in its sole and absolute discretion think fit to, directly or indirectly:

**5.1.1** execute or clear Transactions;

**5.1.2** purchase and/or manage Authorised Investments; and/or

**5.1.3** hold any of your Authorised Investments.

**5.2** You hereby acknowledge that you may be required and if so required, undertake to enter into agreements with such Delegates.

**5.3** Notwithstanding any other provision to this Agreement, you hereby acknowledge and agree that, provided that we have selected or engaged such Delegates in good faith, we shall not be liable to you for any and all losses suffered or incurred by you as a result of any act, omission, default, insolvency, error or negligence of such Delegates.

## **6 Currency conversion**

**6.1** We may, at any time at a rate determined by us in our sole and absolute discretion, carry out transactions to convert any amount in any Account or standing to your credit to any other currency for the purposes of carrying out your Instructions (for example, if you have given us an Instruction to acquire an Authorised Investment on a securities exchange outside Australia which is denominated in a currency other than Australian dollars) or exercising our rights under this Agreement. Exchange rate losses and the costs of conversion shall be borne by you.

**6.2** In carrying out any conversion under this Agreement, we may receive a rebate on the conversion and may also impose fees in respect of such transactions.

## **7 Set-off and Lien**

**7.1** You may not withdraw assets from your Account without our consent so long as you owe monies or obligations (of any nature and however arising) to us. We may at any time withhold any assets pending full settlement of all such monies or obligations owed by you.

**7.2** We and our Delegates have the power to sell any assets in the Account in or towards settlement of obligations in the case of settlement failure.

- 7.3** All documents of title and other documents relating to the assets in the Account shall be deposited with or transferred by you to us or otherwise placed at our order or at our disposal or under our control.
- 7.4** You warrant and undertake that none of the assets held in your Account are or shall be subject to any lien or charge in favour of any other person.
- 7.5** Without prejudice to any right of set-off or general lien or other rights to which we may be entitled, we may set-off from any assets held in the Account against and in whole or partial payment of any sum or liability owed by you to us.
- 7.6** You authorise us to do anything in your name which is necessary for us to be able to do any of the foregoing in **Clauses 7.1 to 7.5**.
- 7.7** You agree and acknowledge that our rights under this Agreement are in addition to any other rights we have at law or under any other agreement, and shall not prejudice any other rights or security that we may have.

## **8 Representations and warranties**

- 8.1** You hereby make the following representations, warranties and undertakings to us, which shall continue in full force and effect throughout the term of this Agreement:
- 8.1.1** you are of full legal age, have the legal capacity to execute, deliver or perform this Agreement and to make the investments envisaged thereby, and are the legal and beneficial owner of the Account;
- 8.1.2** all actions, conditions and things required to be taken, fulfilled and done, in order: (i) to enable you to lawfully enter into, exercise your rights and perform and comply with your obligations under this Agreement, and (ii) to ensure that those obligations are valid, legally binding and enforceable, have been taken, fulfilled and done;
- 8.1.3** you agree and understand that your obligations under this Agreement are valid, binding and enforceable;
- 8.1.4** you are not an undischarged bankrupt;
- 8.1.5** the entry into, exercise of your rights and/or performance of or compliance with your obligations under this Agreement does not and will not (i) violate any agreement to which you or where applicable, any of your affiliates, is a party or which is binding on any of you or your respective assets in the Account, or (ii) result in the existence of, or oblige you to create, any security over those assets in the Account;
- 8.1.6** you understand the investments involve a degree of risk and understand the risk disclosure statements contained in Annex 1 and accept its contents;
- 8.1.7** you understand, agree and acknowledge the terms and conditions of Platform use contained in Annex 2 and accepts its contents;
- 8.1.8** you understand, agree and acknowledge our privacy policy contained in Annex 3 and accepts its contents;
- 8.1.9** neither you, nor any person interested either actually or prospectively in the Account (where relevant) (each, an **"Interested Person"**), is a US Person;
- 8.1.10** you are tax-compliant in all the jurisdictions that you operate in;

- 8.1.11 the funds deposited in the Account are from legitimate sources in connection with your regular business or personal investment activities, do not constitute proceeds of crime, money laundering or the financing of terrorism;
- 8.1.12 you are not a “politically exposed person” or a family member or close associate of a “politically exposed person”;
- 8.1.13 your name does not and has not at any time appeared on the list of Specially Designated Nationals and Blocked Persons maintained by the United States Office of Foreign Asset Control or on any lists or resolutions issued by the United Nations (whether through the Security Council or otherwise) or the Australian government pursuant to which dealings with persons specified therein are prohibited, restricted or discouraged;
- 8.1.14 the information set out in this Agreement and any other information provided from time to time to us is accurate, true, complete, up-to-date and not misleading and you shall further undertake to update us of any changes as soon as practicable. We are entitled to and rely fully and act on all such information and representations without verifying such information, and without any further inquiry or investigation unless otherwise notified by you of any changes with prior written notice;
- 8.1.15 provide any information or documents requested by us in relation to any Account, Transaction and Services, including, where desirable or where required for the purposes of complying with any Applicable Law or pursuant to any order, direction, or request by any applicable court, government or regulatory authority. This includes but is not limited to any applicable anti-money laundering requirements, or any applicable tax disclosure or reporting obligations;
- 8.1.16 (only applicable to joint accounts) you understand, acknowledge and agree that we may not invest the Account in certain markets where, for legal, regulatory or other reasons, investments by joint accounts are restricted or prohibited;
- 8.1.17 your use of the Services complies with all Applicable Laws;
- 8.1.18 you will inform yourself and, if necessary, consult your own professional advisers as to the relevant legal, tax and exchange control regulations in force in the countries of your citizenship, incorporation, residence or domicile;
- 8.1.19 if you are not currently located in Australia, you have specifically sought the provision of the Services by us to you, and have not been solicited, targeted or marketed to by us for the provision of the Services; and
- 8.1.20 such other representations and warranties required in the Annexes.

## 8.2 You agree and acknowledge that:

- 8.2.1 the provision of all Services by us to you, any Account and Transaction and the relationship between us and you shall be subject to all Applicable Laws provided that to the extent permitted by law, a breach of any Applicable Law shall not discharge or release you from any of your obligations under this Agreement to us. The availability of any Service or any terms and conditions applicable thereto (including pursuant to this Agreement) may be varied by us without notice to you for compliance (voluntary or otherwise) with the Applicable Laws;

- 8.2.2** we do not provide any tax or legal advice to you but may (but are not obliged to) in performing the Services, take into account external legal and tax advice we obtain for this purpose. In providing the Services to you, we may rely on external tax and legal advice but, to the extent permitted by law, accept no responsibility for such advice;
- 8.2.3** we shall be entitled to rely on and act in accordance with all legislation and any guidelines, codes, or other information applicable to us, including that published by ASIC to the extent applicable to us and we shall not incur any liability to you as a result of so relying or acting. For the avoidance of doubt, this Agreement shall be construed in accordance with any Applicable Laws;
- 8.2.4** nothing in this Agreement shall exempt, limit or exclude us from acting in compliance with any applicable guidelines or any other Applicable Laws in carrying out our obligations under this Agreement. To the extent that any provision of this Agreement is inconsistent with the requirements of any Applicable Laws or other information applicable to us, including that published by ASIC, the requirements of the relevant Applicable Laws shall prevail over this Agreement;
- 8.2.5** all Transactions that you carry out with us and/or Services we provide to you shall be interrelated and we are therefore entitled to withhold performance of or not to perform our obligations should you fail to fulfil any one of the obligations incumbent upon you;
- 8.2.6** if you 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.
- 8.3** We hereby make the following representations and warranties to you, which shall continue in full force and effect throughout the term of this Agreement:

  - 8.3.1** we have been duly incorporated and are validly existing under the laws of Australia, with full power and authority to enter into and perform our obligations under this Agreement;
  - 8.3.2** we will devote, during the term of this Agreement, such time to the conduct of our business as is necessary to provide the services contemplated by this Agreement;
  - 8.3.3** we will maintain all governmental and regulatory licences, registrations and approvals required by law as may be necessary to continue to perform our obligations under this Agreement; and
  - 8.3.4** we will comply with such securities laws and other laws, regulations and policy statements as are applicable to us, the investment of the Account or our other obligations hereunder.

## **9 Conflicts**

- 9.1** Our services to you are not deemed exclusive. Nothing in this Agreement shall in any way be deemed to restrict our right to perform investment management or other services for any other person or entity, and the performance of such services for others shall not be deemed to violate or give rise to any duty or obligation to you. We may retain for our benefit all fees and other monies payable thereby.



- 9.2** We may enter into transactions on your behalf in any circumstances where we are a party or have direct or actual knowledge of a material beneficial interest in such transaction, provided that we have provided adequate disclosure of our interest.
- 9.3** You acknowledge that other clients of ours, our Delegates, and clients of our Delegates and their respective officers, directors and employees may have an interest in a security which is purchased, sold or otherwise traded by us on your behalf. You agree that we may engage in transactions on your behalf which may be inconsistent with transactions recommended to, or engaged in by us on behalf of other clients of ours, or clients of our Delegates, or transactions engaged in by such Delegates, their respective officers, directors or employees.
- 9.4** You consent and agree that, to the extent permitted by Applicable Law, we and/or our Brokers may (but are not required to) aggregate investment sale and purchase orders for the Account with similar orders being made contemporaneously for other accounts managed by us or with accounts of our Delegates if, in our reasonable judgment, such aggregation is reasonably likely to result in an overall economic benefit to the Account, based on an evaluation that the Account is benefited by relatively better purchase or sale prices, lower commission expenses or beneficial timing of transactions, or a combination of these and other factors.

## **10 Statements and other documents**

- 10.1** Any statements, contract notes and any other documents or communications will be sent to you via electronic means and/or to the electronic mail address indicated by you at the opening of the Account or edited subsequently through the “Change of Email procedure” available on the Platform. You agree and acknowledge that such documents will be made available to you only electronically, and therefore, you may download, save or print the documents for your subsequent reference.
- 10.2** You acknowledge that all valuations, Account overviews and summaries are provided on a reasonable efforts basis and should not be relied upon with regards to the liquidation value of any given position or combination of positions.
- 10.3** You agree to verify the correctness of all details contained in each statement, or any document sent to us and inform us within fourteen (14) calendar days from the date of such document of any discrepancies, omissions, or errors. Upon the expiry of this period, the details in such documents shall be conclusive evidence against you (save for manifest or clerical error) without further proof, except as to any alleged errors so notified, that such details are correct, but subject always to our right to amend or delete from time to time, any details wrongly inserted by us as set out in **Clause 10.4** below. Except as provided in this **Clause 10.3**, and provided that we are not fraudulent or in wilful default, we shall be free from all claims in respect of any Account or the details of the Transactions or Services contained in such documents.
- 10.4** You agree and acknowledge that we have the right, upon giving reasonable notice to you, to reverse any entry, demand a refund, and/or debit the Account in respect of any overpayment or wrongful credit in the Account.
- 10.5** You further agree and acknowledge that we may, without prejudice to any of the foregoing, at any time without prior notice to you rectify any clerical errors that may have been made.



**10.6** Where you have not received any document, advice, statement of account, contract note, confirmation, or other notification relating to a specific Transaction which you were expecting to receive, you must advise us immediately.

## **11 Fees, charges and expenses**

**11.1** The fee payable by you to us for the Services is specified in the Pricing Schedule available on our Platform (“**Fees**”) as may be amended from time to time. All liabilities, costs and expenses which we incur under this Agreement will be covered by the Fees.

**11.2** You agree to pay all costs and expenses (including all taxes, duties, levies, brokerage, commission and fees, including all fees due and payable for custodian services rendered from time to time incurred) in connection with the Account. For the avoidance of doubt, you shall make all payments due under this Agreement free and clear of, and without deduction, withholding or set-off on account of, any tax or levy or any other charges present and future. You further agree to indemnify us on demand against all costs, expenses, liabilities, claims, demands or proceedings arising from the exercise of any of our rights and discretions or the performance of any of our duties under this Agreement, including, but not limited to, our reliance on any information provided by you, from any dealings with the Account by any person authorised to act in relation thereto or as a result of our acting in good faith on instructions given or purportedly given by any such person. We may, in our sole and absolute discretion during the opening of the Account, in effect, waive or reduce or rebate any part or all of the fees and expenses payable by you.

**11.3** We may charge to, deduct, withdraw, and recover from the Account the full amount of any Fees, costs, expenses, the amounts due to us hereunder, and any other monies owed by you to us pursuant to any liability of any nature arising in respect of the Account or otherwise. We shall have a lien over the Account for all amounts payable whether present or in the future, actual or contingent and in whatever currency. We or our Delegates may at any time, without prior notice to you, realise (whether through a sale or disposal in such manner and on such terms as we or our Delegates may see fit and at your expense) any part of the Account and may apply the proceeds (or any other amounts held to or payable to you) in or towards settlement of such amounts or other obligations. We or our Delegates may further withdraw and collect uninvested cash in the Account and/or sell the assets in the Account and collect the proceeds from such sale.

**11.4** We shall be entitled to receive and retain for our own absolute use and benefit (without any liability to account to you) any brokerage rebates, currency conversion rebates, fees, other payments or benefits which we receive in connection with or derives from any transaction involving the Account.

**11.5** Unless expressly stated otherwise, all Fees, charges and other consideration to be provided under this Agreement is expressed on a GST-exclusive basis. Where a fee is expressly stated to be exclusive of GST, you agree to pay us the GST amount.

**11.6** You agree to keep us indemnified against any applicable penalties and interest in relation to GST that is paid or payable by us in providing taxable services to you, except to the extent that the penalties or interest arise from, or are caused by, fault on our part.

## 12 Losses and liabilities

- 12.1** We and our employees, officers, Delegates or counterparties employed or used by us in connection with the Services (collectively, the “**Associates**”) make no representation, warranty or guarantee as to the performance of the Account or Authorised Investments. We and our Associates will operate the Account and provide the Services, subject to the provisions of this Agreement, in accordance with our usual business practice and will not be liable for any loss which may be suffered or incurred by you in any way in relation to any Services provided pursuant to this Agreement, or Transaction contemplated under this Agreement, howsoever caused, including but not limited to any loss resulting from any decline in value of the Account or Authorised Investments, the exercise of any of our and our Associates’ rights and discretions or the performance of any of our or their duties hereunder, any error of judgement or error of fact, except to the extent they are caused by our and/or our Associates’ own wilful default, fraud or Gross Negligence. In such event, our and our Associates’ liability in connection with any Transaction or Service shall not exceed the market value of such Transaction or Service at the time of the fraud, Gross Negligence or wilful default. For the avoidance of doubt, we shall not be liable for (a) the acts or defaults of any agent, Broker, custodian or nominee engaged in connection with this Agreement unless it can be shown that we failed to exercise due care in the selection thereof or (b) for any act or omission or any loss arising by reason of any cause beyond our reasonable control.
- 12.2** We and our Associate(s) shall not be liable for any losses incurred by you as a result of any action taken by or omission on our and/or our Associates’ part in good faith. We and/or our Associate(s) shall not, in the absence of fraud, Gross Negligence or wilful default be liable to you for any act or omission in the course of or in connection with the Services rendered under these terms or for any losses which you may suffer or sustain as a result of, in connection with or in the course of discharge by us and/or our Associate(s) of our duties hereunder.
- 12.3** We and our Associate(s) shall not be liable for any losses or damages that may arise due to the fact that you cannot contact us in due time, or we and/or our Associate(s) cannot contact you in due time, or your failure to react to notifications from us in due time.
- 12.4** To the maximum extent permitted under Applicable Laws, we and our Associate(s) shall not be liable for incorrect or omitted information in any prospectus or other material relating to Authorised Investments issued by a third party, nor shall we and/or our Associate(s) have any liability for losses of any kind that are attributable to such incorrect or omitted information. All information or views given and prices quoted in the material are subject to change without notice.
- 12.5** We shall not be responsible for or be liable to investigate the creditworthiness or status of any issuer, guarantor or other person liable in respect of any Authorised Investment, the validity or binding effect thereof or of any related document or any similar matter.
- 12.6** You agree to indemnify on a full indemnity basis, to compensate us, and to hold us and our Associate(s) harmless from and against any and all losses, and reimburse on demand, against all losses which we or our Associate(s) may suffer or incur arising from or in connection with the Account, Transactions, Services, or any Instructions, whether incurred directly or indirectly (unless they arise solely from our or our Associate’s fraud, Gross Negligence or wilful default).





- 12.7** You shall provide us with the required assistance if any claims are made by us against third parties or against us by third parties that are related to an Authorised Investment held, or Transaction executed, in your Account.

### **13 Notices concerning the platform or services**

- 13.1** All instructions, notices, demands or other communications required or permitted to be given under this Agreement ("**Notices**") shall be sent as follows:

**13.1.1** in the case of a Notice to you, by posting a Notice on the Platform or via other modes of communication, including but not limited to the sending of a Notice to the electronic mail address indicated by you at the opening of the Account or edited subsequently through the "Change of Email procedure" link available on the Platform; and

**13.1.2** in the case of a Notice to us, by posting a Notice on the Platform or unless otherwise accepted and suggested by us.

- 13.2** You are deemed to receive the Notice sent by us upon the earlier of:

**13.2.1** receipt of the Notice by you on the Platform;

**13.2.2** receipt of the Notice by you through your electronic mail address; or

**13.2.3** expiration of the calendar month following the posting of the Notice on the Platform or to your electronic mail address.

- 13.3** We are deemed to receive the Notice sent by you on the date upon which it is sent, unless it is sent after 5.00 pm on a Business Day or at any time on a non-Business Day in which case it will be deemed to have been received on the next following Business Day.

- 13.4** You must promptly inform us in writing of any change in your mailing address, fax number and/or email address for communication or any of your relevant particulars available in our records and send us all supporting documents we require. We will need a reasonable time period, not being less than seven (7) Business Days from receipt, to act and effect the change in our records, after which, we may rely on the change.

- 13.5** You agree from time to time to sign (or cause to be signed on its behalf) all such documents and to provide all such information as we may consider necessary or desirable in connection with this Agreement.

- 13.6** This **Clause 13** relates only to Notices in respect of matters concerning the Platform or Services.

### **14 Personal information**

- 14.1** You acknowledge that you have accessed and read the copy of our Privacy Policy contained in Annex 3.

- 14.2** To the extent any financial statement or communication may be sent to you, you consent to us sending you by postal mail or email financial statements or other statements or communication relating to the Account and in so doing processing such personal information for such purpose, and in the case of postal mail, you consent to such necessary personal information of yours being printed on an envelope that is capable of being seen by the public in order for the envelope to be delivered to your usual place of correspondence.

**14.3** All such information may be retained and used after the termination of this Agreement. In this regard, you undertake to do all such acts and deeds as we may reasonably request and to execute sign and deliver any document, instrument or notice if required to do so by us for the purpose of ensuring compliance by us and/or you with Australian and other applicable prevailing data protection and other analogous laws in Australia or elsewhere from time to time. Inquiries concerning the collection, use or disclosure of such personal information may be directed to us.

## **15 Anti-money laundering and customer verification**

**15.1** You hereby understand, acknowledge and agree that in order to comply with any applicable anti-money laundering, anti-corruption, anti-tax evasion and the prevention of the financing of terrorism regulations, we are obliged to carry out "Know Your Client" procedures in accordance with our policies and Applicable Laws and may require detailed verification of your identity, the identity of your authorised signatories, connected parties and beneficial owners (if any), the source of funds and the tax risk status, and to comply with anti-money laundering, anti-corruption, anti-terrorism and anti-tax evasion rules under Applicable Laws. In the event of delay, refusal or failure by you to produce any information required for such purposes, we may take various actions including but not limited to, delaying and/or refusing to accept any additional deposits and/or pay any redemption proceeds. Neither we nor our agents or delegates shall be liable for any loss (whether direct, indirect or consequential and including, without limitation, loss of profit or interest) suffered by you as a result of the actions taken by us.

**15.2** Without prejudice to any provision in this Agreement, as part of our compliance with our Know-Your-Customer and Anti-Money Laundering obligations, we or any third party we have appointed as our agent shall be entitled to verify your identity by collecting and reviewing copies of your passports or identification documents, verifying the information you provide against government records and conducting video-based assessments to verify the identities of each individual where necessary.

**15.3** We shall also verify your phone number by way of a one-time password and email address with a single sign-on, as an additional safeguard for customer verification. You shall deploy funds to the Account only if all your personal details match those in our Know-Your-Customer and Anti-Money Laundering records.

## **16 Compliance with Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standard (CRS) reporting requirements**

**16.1** You agree that you shall be required to, upon our demand and in a timely manner: (i) provide any form, certification or other information, as may be requested by and in a form acceptable to us, that is necessary for us: (A) to prevent withholding or qualify for a reduced rate of withholding or backup withholding in any jurisdiction from or through which we receive payments; or (B) to satisfy reporting or other obligations under the US Tax Code and the Treasury regulations promulgated thereunder or the ITAA; (ii) to update or replace such form, certification, or other information in accordance with our terms of subsequent amendments; and (iii) otherwise comply with any reporting obligations imposed by the United States or any other jurisdiction, including reporting obligations that may be imposed by future legislation.

**16.2** You hereby understand, acknowledge and agree that we may disclose such information and/or produce such forms, certifications and/or such other documents as we may in our

sole and absolute discretion determine to be necessary to the Treasury Department, the ATO, ASIC and/or such other government division or department and/or statutory body as may be required to satisfy our reporting or other obligations under the US Tax Code and the Treasury regulations promulgated thereunder or under the ITAA.

- 16.3** You acknowledge and agree that if, and to the extent that, we are required to make any payment, withholding or deduction as a consequence of your failing to comply in a timely manner with the requirement in **Clause 16**, we shall be entitled to, at our sole and absolute discretion, withhold all or a portion of the amounts payable in respect thereof to you if we are required under the laws of the United States or as a consequence of any agreement between us and the Treasury Department or similar government division or department to withhold any payments as a consequence of you failing to comply in a timely manner with the requirement in the preceding representation and warranty. You agree to hold harmless and to indemnify us against any amount of payment, withholding or deduction referred to in this **Clause 16.3** that is in excess of such amount as may be standing to the Account.
- 16.4** You acknowledge and agree that in the event your status or the status of any Interested Person changes from a non-US Person to a US Person, you shall immediately notify us and you shall be required to, upon our demand and in a timely manner, provide any form, certification, representation, confirmation or other information, as may be requested by and in a form acceptable to us.
- 16.5** You acknowledge and agree that we may in our sole and absolute discretion terminate this Agreement with immediate or subsequent effect by written notice if you fail to comply in a timely manner with the requirement in the preceding representation and warranty in **Clause 16**, whereupon we shall be entitled to receive all fees and other monies accrued up to the date of such termination.
- 16.6** You acknowledge and agree that we shall not be responsible for or liable to you for any loss to you arising as a result of any act or omission or any error of judgment not amounting to actual fraud in complying with our reporting or other obligations under the US Tax Code and the Treasury regulations promulgated thereunder or under the ITAA.
- 16.7** You are not required to provide your Tax File Number, Australian Business Number or exemption code to us. However, if you do not provide this information to us, we or the Broker may be required by law to deduct and withhold amounts from payments otherwise owing to you at the highest rates, and pay those amounts to the ATO.

## **17 Termination**

- 17.1** Immediate termination by us. We reserve the right to restrict, temporarily or permanently suspend or terminate the Account, or the provision of any Services, at any time and with immediate effect, without incurring liability of any kind to you, if any of the following events occur:
- 17.1.1** you have not fully complied with our account opening criteria and/or met our account opening criteria (as we shall set from time to time), including, our “Know Your Client” procedures;
- 17.1.2** you delay or fail to produce any information requested by us under **Clause 15** for the purposes of verifying your identity, your beneficial owners (if any) and/or the source of the payment of monies to comply with anti-money laundering and/or anti-terrorism rules under Applicable Laws;

- 17.1.3 you fail to comply in a timely manner with a request issued by us under **Clause 16**;
  - 17.1.4 you fail to make any payment to us or any other party when due, whether under this Agreement or otherwise for the Services;
  - 17.1.5 your death or insanity;
  - 17.1.6 any grounds exist for the presentation of a bankruptcy petition against you;
  - 17.1.7 any representation or warranty made by you under this Agreement or through the Platform or for the Services is incomplete, untrue, incorrect or misleading in any material respect;
  - 17.1.8 you have breached the terms of this Agreement;
  - 17.1.9 you are using the Platform or the Services in a manner that may cause us to breach Applicable Laws, incur legal liability or disrupt others' use of the Platform or the Services;
  - 17.1.10 you are using the Platform or the Services for any illegal activities or where we have reasonable suspicion that you may be doing so, or we become aware or suspect that the Account is or will be used for illegal, fraudulent or unauthorised uses;
  - 17.1.11 we become aware or suspect that your Access Methods (i.e. any user identification, passwords and other security credentials assigned to you and required to access and use the Platform) are stolen, lost, damaged or compromised;
  - 17.1.12 we become aware or suspect that the person accessing the Account or utilising the Services is not you (or your authorised person);
  - 17.1.13 we are required to do so by Applicable Laws or pursuant to a request by any regulatory body;
  - 17.1.14 prolonged scheduled downtime or recurring downtime in respect of the Platform;
  - 17.1.15 a Force Majeure Event occurs;
  - 17.1.16 you publish, post, transfer, distribute or upload any content or information on the Platform or from the Platform which is false, misleading or inaccurate, contains rude and inappropriate language or which creates the impression that any content is sponsored or endorsed by us;
  - 17.1.17 you modify, adapt or reverse engineer the Platform or any part thereof;
  - 17.1.18 you transmit any viruses, worms, defects, Trojan horses or any other items of a destructive nature, or that may otherwise compromise the security of the Platform;
  - 17.1.19 you create multiple Accounts without our prior approval;
  - 17.1.20 you create Accounts by automated means or under false or fraudulent pretences; or
  - 17.1.21 you are the subject of any adverse publicity or involved in any litigation that we reasonably believe would be detrimental to our interests.
- 17.2** For the purpose of **Clause 17.1**, "**Force Majeure Event**" means any event beyond our reasonable control (and which does not relate to or arise by reason of our default or Gross Negligence) which renders impossible or hinders our performance of this Agreement including the Services, including, without limitation:

- 17.2.1 war, riot, civil unrest or revolution, sabotage, terrorism, insurrection, acts of civil or military authority, imposition of sanctions, embargo, breaking off of diplomatic relations or similar actions;
  - 17.2.2 terrorist attacks, civil war, civil commotions, enemy action or riots;
  - 17.2.3 acts of God, epidemic, pandemic, flood, earthquake, typhoon, storm, tempest or other natural disasters or adverse weather or environmental condition;
  - 17.2.4 any act of state or other exercise of sovereign, judicial or executive prerogative by any government or public or other competent authority, including expropriation, nationalisation or compulsory acquisition or acts claimed to be justified by executive necessity;
  - 17.2.5 fire, explosion or accidental damage;
  - 17.2.6 disruption of relevant markets, unavailability of prices or other causes;
  - 17.2.7 collapse of building structures or failure of plant machinery, computers or vehicles, breakdown or delay in communications;
  - 17.2.8 interruption or failure of utility service, including but not limited to electric power, gas or water; or
  - 17.2.9 any labour disputes, including but not limited to strikes, industrial action or lockouts.
- 17.3** For the avoidance of doubt, we shall not be in breach of this Agreement, nor be liable for any failure or delay in the performance of any other obligations under this Agreement arising from or attributable to any of the circumstances giving rise to a right to termination under **Clause 17**, provided that we shall use all reasonable efforts to minimise the effects of the same.
- 17.4** Termination by notice from us. We may at any time and without liability to you terminate this Agreement including the Services. In such cases, we will endeavour to provide you with not less than fourteen (14) calendar days' written notice. However, in certain cases, we may terminate the Account, the Services or this Agreement by providing shorter notice or providing notice with immediate effect. No such termination will affect any Instructions given by you which are properly received by us before the date of such notice.
- 17.5** Without prejudice to **Clause 17.4**, we may terminate this Agreement in respect of the Account or the Services with immediate or subsequent effect by written notice to you if you breach any of your representations and warranties in this Agreement, in particular if you fail to comply in a timely manner with the requirement in the representation and warranty in **Clause 16**, whereupon we shall be entitled to receive all fees and other monies accrued up to the date of such termination.
- 17.6** Termination by notice from you. You may terminate this Agreement, the Account or the Services with us at any time by providing us with notice in the manner as we may specify on the Platform. However, no such termination will affect any Instructions given by you which are properly received by us before the receipt of such notice or any action we may take in relation to the Account before the receipt of such notice.
- 17.7** Effect of termination. On termination of the Account or any Services or the agreement or relationship between you and us:
- 17.7.1 you will stop using any Services;

- 17.7.2 all charges, costs and/or expenses due to us or any third parties under this Agreement shall fall due for repayment immediately;
- 17.7.3 we may discharge our entire liability with respect to the Account by selling the assets in the Account at your expense and arranging for any credit balance standing in the Account to be transferred to you at the earliest time possible and within fifteen (15) Business Days from the termination of this Agreement, subject to Applicable Laws and unforeseen processing delays by the banks;
- 17.7.4 you shall, upon our request (acting reasonably), return, destroy or delete any information or documents received from us, including any copies thereof.

## **18 Dormant accounts and unclaimed assets**

In the event that you have not accessed the Account through the Platform or otherwise undertaken any activity in relation to the Account (such as transfer-in of funds) or the Services for five (5) years, the Account will be deemed dormant and de-activated. During such period, we will continue to apply and set off any applicable administrative costs, Fees and/or other charges payable by you against the dormant Account. Re-activation is required for the Account to resume activity. If you wish to re-activate the Account, you agree to provide us with such information as we may require to authenticate your identity. Otherwise, we may terminate the Account in accordance with this Agreement. If we determine in good faith that we are still unable to trace you in the seven (7) years following dormancy, the Account will be terminated and you agree that all assets then standing to the credit of any Account or otherwise held by us or our Delegate (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) may forthwith be to the extent permissible by law appropriated by us to ourselves to utilise in any manner we so wish for our own benefit. You thereafter shall have no right whatsoever to claim such monies and property (or any other property as may accrue to it), you being deemed to have waived and abandoned all your rights to such assets (and any other property as may accrue to it) in our favour.

## **19 No waiver**

- 19.1 No failure or delay on our part in exercising any power of sale or any other rights or options hereunder and no notice or demand which may be given to or made upon you by us with respect to any power of sale or other right or option hereunder, shall constitute a waiver thereof, or limit or impair our right to take any action or to exercise any power of sale or any other rights or options hereunder without notice or demand, or prejudice our rights as against you in any respect or render us responsible for any loss arising therefrom. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.
- 19.2 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.

## **20 Electronic records**

- 20.1 Our records (including computer and microfilm stored records or any other electronic records stored by us) of all matters relating to you, any Transactions on the Account and/or any Services provided to you are conclusive evidence of such matters and are binding against



you for all purposes, save for manifest or clerical error, subject to our right to rectify any error or omission therein and our right to adduce other evidence. You hereby agree not to at any time dispute the authenticity or accuracy of any computer output relied upon by us for any purpose whatsoever.

- 20.2** You acknowledge and agree that we shall be entitled to destroy or dispose of all registers, statements and other records and documents relating to the Account, Services or Transactions at any time after the expiration of any period of retention required by Applicable Law. We shall not be liable in any way for such destruction or disposal.

## **21 Delegates**

- 21.1** You acknowledge and agree that we may, in the conduct of our functions, instead of acting ourselves, delegate to or appoint any service provider, agent, sub-agent, contractor, sub-contractor, Broker, dealer, custodian, nominee or other third parties, whether in Australia or otherwise, (and such persons shall each be referred to in this Agreement as our “**Delegate**”, where the context permits) to carry out, execute or clear any Transaction, hold, custodise or deal with the assets, or provide ongoing maintenance and support services for the operation of the Platform or such other Services or business as may be required by us.

- 21.2** You acknowledge and agree that we may delegate to such Delegates all or any of the power, authority or discretion vested in us and any such delegation may be made upon such terms and conditions and subject to such regulations (including the power to sub-delegate) and we may provide information about you and the Account to any such Delegate as we may think fit, provided always that we shall have exercised reasonable care in the selection of such Delegate, we shall not be bound to supervise the actions of and shall not in any way or to any extent be responsible for any loss incurred by you for any failure, neglect, default or breach by any such Delegate.

- 21.3** You agree that our employees, officers, or Delegates shall not have any authority to bind us to any obligations or liabilities as otherwise expressly provided in this Agreement.

## **22 Confidential information**

- 22.1** Our obligations of confidentiality. Save as permitted under this Agreement or any other agreement with you, we shall treat all information relating to you, the Accounts and the Services as confidential.

- 22.2** Non-confidential information. You acknowledge that the following information will not be regarded as confidential information and we do not owe you or any other person any duty to keep such information confidential:

**22.2.1** information that as at the date of its disclosure is in the public domain (other than through a breach of this Agreement) or which subsequently enters the public domain (other than through a breach of this Agreement);

**22.2.2** information that was already in our possession before you provided the information to us;

**22.2.3** information which we received from a third party who has lawfully acquired such information and is under no confidentiality obligation regarding its disclosure to us; and



**22.2.4** any information which is anonymised or encrypted in such a manner where the identities of any person cannot be readily inferred, or which cannot be referable to any particular person.

**22.3** Exceptions from duty of confidence. You give us permission to disclose information relating to you, the Account and/or the Services to:

**22.3.1** any of our directors, officers, employees, representatives, agents or delegates;

**22.3.2** any of our Delegates, shareholders or related corporations and any of their successors, assigns or sub-contractors, and their directors, officers, employees, representatives, agents or delegates;

**22.3.3** our professional advisers, consultants and auditors;

**22.3.4** anyone who takes over or may take over all or part of our rights or obligations under this Agreement or anyone this Agreement (or any part of it) is transferred to or may be transferred to;

**22.3.5** any person who we believe in good faith to be your legal advisers or other professionals engaged by you;

**22.3.6** any regulatory body in any jurisdiction, in so far as we need to do so to keep to Applicable Laws, or which we in good faith believe that we should keep to;

**22.3.7** any person in accordance with Applicable Laws;

**22.3.8** pursuant to a request by any regulatory body (regardless of the reason for such request and whether such request is exercised under a court order or otherwise); and

**22.3.9** to such other persons or under such other circumstances as you agree,

provided that in the case of disclosures under any of the circumstances in **Clauses 22.3.1** to **22.3.3**, we shall, where reasonably possible, procure that the recipient is subject to the same duty of confidence.

**22.4** Survival. The permission you give by agreeing to **Clause 22** will apply even after this Agreement ends or the Account and/or Services are terminated.

**22.5** Your duties. Any data, information or message transmitted to you through the System, the Platform or otherwise is confidential and intended for the sole use of the intended recipient. If you are not the intended recipient, you should immediately notify us and delete or destroy such data, information or message, including all copies thereof.

**22.6** Confidentiality of Other Information. You must keep confidential, all information about the Platform, the System and any information, data, materials or documents provided to you.

## **23 Recordings**

You authorise us and any of our Delegates to record any telephone conversation or any electronic communication conducted between you and us or our personnel, to retain such recordings and use them in such manner as we consider appropriate. The recordings shall be admissible in evidence in legal proceedings and shall have the same probative value as a written original document. You shall not challenge or dispute the admissibility, reliability, accuracy or the authenticity of the contents of such records and you hereby waive any right





(if any) to so challenge or dispute. You agree that the recordings made by us shall be conclusive evidence of the contents and shall be binding on you.

## 24 Complaints

**24.1** Sanlam and Syfe have established procedures for dealing with complaints which cover the financial services that we provide to retail clients;

**24.2** If you have a complaint about the financial services we provide, you should first contact us. If you cannot resolve the complaint with us, then you should contact Sanlam. Our contact details for complaints and that of Sanlam are as follows:

### **Syfe Australia Pty Ltd**

L2, 161 Collins Street  
Melbourne VIC 3000  
Australia  
Phone: 1800 577 398  
Email: support.au@syfe.com  
Website: <https://www.syfe.com/au>

### **Sanlam Private Wealth Pty Ltd (Authorising Licensee)**

Level 2, 33 York Street  
Sydney NSW 2000  
Australia  
Phone: (02) 8245 0500  
Fax: (02) 8245 0599  
Email: SPW\_compliance@privatewealth.sanlam.com.au  
Website: <https://sanlamprivatewealth.com.au>

**24.3** We will acknowledge your complaint within 1 business day of receipt. We will investigate complaints with the aim to provide a response (if not a resolution to the complaint) within 30 days.

**24.4** If you are ultimately dissatisfied with the outcome of your complaint, you may refer the matter, free of charge, to the Australian Financial Complaints Authority (“**AFCA**”), which is an external dispute resolution scheme. The contact details for AFCA are:

### **Australian Financial Complaints Authority**

Phone: 1800 931 678  
Fax: (03) 9613 6399  
Email: [info@afca.org.au](mailto:info@afca.org.au)  
Mail: Australian Financial Complaints Authority  
GPO Box 3  
Melbourne VIC 3001  
Website: [www.afca.org.au](http://www.afca.org.au)

**24.5** Sanlam is a member of AFCA.

**24.6** If you have a complaint about a financial product rather than about our services, then you should contact the relevant product issuer. The PDS for the relevant product will explain how you can do this.

## 25 General

**25.1** We shall be entitled at any time and from time to time to disclose to governmental or regulatory authorities any information within our knowledge relating to you, which information

is reasonably required by governmental or regulatory authorities, whether such information has been acquired by us pursuant to, or in connection with this Agreement or otherwise.

- 25.2** The headings contained in this Agreement are inserted for the purpose of convenient reference only and are not to be considered in any construction or interpretation of the same.
- 25.3** Any dispute arising out of or in connection with this Agreement and/or the documents referred to herein, including any question regarding their existence, validity or termination, shall be referred to and finally resolved by the Courts of New South Wales, Australia and courts competent to hear appeals from those courts and both you and us hereby unconditionally and irrevocably submit to their exclusive jurisdiction.
- 25.4** You shall execute such other documents, do such acts and things and take such further actions as may be reasonably required or desirable to give full effect to the provisions of this Agreement and the transactions hereunder and you shall use your best endeavours to procure that any necessary third party shall execute such documents, do such acts and things and take such further actions as may be reasonably required for giving full effect to the provisions of this Agreement and the transactions hereunder.
- 25.5** You shall not have the right to assign any of such rights, undertakings, agreements, duties, liabilities and/or obligations hereunder, except with our written consent. We may assign or transfer any of our rights hereunder to any party without your consent, but subject to prior notification.
- 25.6** We reserve the right to amend and alter this Agreement in our sole and absolute discretion at any point of time and have it posted on the Platform and/or send any email notification to you. You agree that it shall be your responsibility to review this Agreement regularly. If you do not accept any such supplement, variation and/or modification, you shall immediately discontinue operating the Account and/or utilising the Services provided by us and promptly close your Account and terminate this Agreement. If you continue to operate the Account and/or utilise the Services provided by us after such notice, you are deemed to have agreed to such supplement, deletion, variation and/or modification without reservation.
- 25.7** This Agreement and the documents referred to in this Agreement collectively embody the entire terms and conditions agreed upon by you and us as to the subject matter of the same and supersedes and revokes in all respects all other documents, agreements, letters of intent, and undertakings entered into between you and us, whether they are written or oral, with respect to the subject matter hereof. All provisions of this Agreement shall so far as they are capable of being performed or observed continue in full force and effect notwithstanding completion of the matters set out therein except in respect of those matters then already performed and except where expressly stated to the contrary. This Agreement shall be binding on and shall endure for the benefit of each of your and our successors in title or legal personal representatives.
- 25.8** All disclaimers, indemnities and exclusions in this Agreement shall survive the termination of this Agreement.
- 25.9** If any provision of this Agreement or part thereof is rendered void, illegal or unenforceable by any legislation to which it is subject, it shall be rendered void, illegal or unenforceable to that extent and no further and, for the avoidance of doubt, the rest of this Agreement shall continue in full force and effect and the legality, validity and enforceability of the whole of this Agreement in any other jurisdiction shall not be affected.



- 25.10** This Agreement supersedes any previous agreement between you and us in relation to the matters dealt with herein and represents the entire understanding between you and us in relation thereto.
- 25.11** This Agreement may be signed in any number of counterparts and by you and us on separate counterparts, each of which when so executed shall be an original, but all counterparts shall together constitute one and the same document.
- 25.12** This Agreement shall be governed by, and construed in accordance with, the laws of New South Wales, Australia.

## **26 Definitions**

**26.1** For the purposes of this Agreement (which shall include all other Schedules and Annexes attached hereto), the following words and phrases shall have the following meaning:

<b>“Access Methods”</b>	shall mean any user identification, passwords and other security credentials assigned to you and required to access and use the Platform using your Account.
<b>“Account”</b>	shall mean the account set up for you and containing Authorised Investments purchased pursuant to any of the Services provided to you.
<b>“Agreement”</b>	shall mean the General Terms, together with all Annexes, Schedules, disclosures, terms, conditions, rules and regulations included on our Platform or website, as the same may be amended, modified, supplemented or replaced from time to time.
<b>“Applicable Laws”</b>	shall mean all applicable local or foreign laws, rules, acts, regulations, subsidiary legislation notices, notifications, circulars, licence conditions, directions, requests, requirements, guidelines, directives, codes, information papers, practice notes, demands, guidance and/or decisions of any national, state or local government, any agency, exchange, regulatory or self-regulatory body, law enforcement body, court, central bank or tax revenue authority or any other authority (including ASIC and the ATO) whether in Australia or elsewhere, whether having the force of law or not (including any intergovernmental agreement between the governments or regulatory authorities of two or more jurisdictions or otherwise), as may be amended from time to time.
<b>“Application Form”</b>	shall mean the forms or documents (whether or not online) prescribed by us from time to time to be completed and signed by you for the purpose of opening and maintaining any Account, entering into Transactions or receiving any Services under this Agreement.

<b>“ASIC”</b>	shall refer to the Australian Securities and Investments Commission.
<b>“Associates”</b>	shall have the meaning ascribed to it in <b>Clause 12.1</b> .
<b>“ATO”</b>	shall refer to the Australian Taxation Office.
<b>“Authorised Crypto Investment”</b>	Shall have the meaning ascribed to it in Cryptocurrency Trading Services Terms.
<b>“Authorised Investment”</b>	<p>shall include any cash, liquid funds or deposits in any currency; common, preferred and convertible preferred shares, certificates of deposit or other certificates, depository receipts, warrants, or other equivalent types of securities; any securities, investment or instrument issued in exchange for or substitution of or otherwise in respect of or in relation to any Authorised Investment; any collective investment schemes; and any other securities, investments or instruments added from time to time.</p> <p>Where you use our Cryptocurrency Trading Services, a reference to an “Authorised Investment” shall include an Authorised Crypto Investment.</p>
<b>“Broker”</b>	<p>shall refer to any executing broker, clearing broker or any other broker appointed from time to time to execute, clear or otherwise act as broker in respect of trades in Authorised Investments, and includes Syfe where Syfe acts as broker.</p> <p>Where you use our Cryptocurrency Trading Services, a reference to a “Broker” shall, unless the context suggests otherwise, include a Crypto Broker.</p>
<b>“Business Day”</b>	shall mean a day (other than a Saturday) on which banks in Sydney, New South Wales, Australia are open for business.
<b>“Client Account”</b>	shall have the meaning ascribed to it in <b>Clause 4.5.8(a)</b> .
<b>“Crypto Broker”</b>	shall have the meaning ascribed to it in the Cryptocurrency Trading Services Terms.
<b>“Cryptocurrency Trading Services Terms”</b>	shall mean the terms and conditions which you have to agree to before you use our Cryptocurrency Trading Services.
<b>“Crypto Custodian”</b>	shall have the meaning ascribed to it in Cryptocurrency Trading Services Terms.
<b>“Custodian”</b>	shall mean a person appointed to hold legal title to Authorised Investments on your behalf, and to receive proper instructions from us relating to such Authorised Investments, in accordance with the relevant Custody Terms.

Where you use the Cryptocurrency Trading Services, a reference to a “Custodian” shall, unless the context suggests otherwise, include a Crypto Custodian.

For the avoidance of doubt, a Custodian in one context and/or in respect of one class of Authorised Investment may be different from another Custodian in another context and/or in respect of another class of Authorised Investment, as the case may be.

“Custody Services”	shall mean the custody services provided by a Custodian in accordance with the relevant Custody Terms.
“Custody Terms”	shall mean any legal agreement under which a Custodian may be appointed to hold Authorised Investments on your behalf, which will be displayed on our website and will be provided to you for acceptance when you sign up to receive Trading Services for the corresponding Authorised Investments.
“Delegates”	shall have the meaning ascribed to it in <b>Clause 21.1</b> .
“Fees”	shall have the meaning ascribed to it in <b>Clause 11.1</b> .
“Financial Services Guide”	shall have the meaning ascribed to it in the Corporations Act.
“Force Majeure Event”	shall have the meaning ascribed to it in <b>Clause 17.2</b> .
“General Terms”	shall refer to the provisions under the “General Terms” heading of this Agreement and the Annexes.
“Gross Negligence”	in relation to a person, shall mean a standard of conduct beyond negligence whereby that person acts with reckless disregard for the consequences of a breach of duty of care owed to another.
“GST”	shall have the meaning ascribed to it in the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
“Instructions”	shall mean any communication, instruction, order, message data or information received by us through or pursuant to the Platform or otherwise referable to your Access Methods, and any information delivered to us offline by any methods as we may agree.
“Interested Person”	shall have the meaning ascribed to it in <b>Clause 8.1.9</b> .
“ITAA”	shall mean <i>the Income Tax Assessment Act 1936</i> (Cth), the <i>Income Tax Assessment Act 1997</i> (Cth) and any other relevant Australian tax legislation.
“Know-Your-Customer and Anti-Money Laundering”	shall mean the prevention of money laundering, tax evasion and the countering of financing of terrorism.



<b>“Platform”</b>	shall mean the online platform (accessible through our website or through our mobile application) operated by us, and includes our website.
<b>“politically exposed person”</b>	shall have the meaning ascribed to it in the <i>Anti-Money Laundering and Counter-Terrorism Financing Act 2006</i> (Cth).
<b>“Privacy Policy”</b>	shall mean our privacy policy set out in Annex 3, as amended and updated from time to time.
<b>“Sanlam”</b>	shall mean Sanlam Private Wealth Pty Ltd (ABN 18 136 960 775, AFSL No 337927).
<b>“Services”</b>	shall mean the services provided by us to you pursuant to this Agreement.
<b>“System”</b>	shall mean the hardware, software and telecommunication links or any part thereof used from time to time for the purpose of providing, supporting, accessing and/or otherwise referable to the Platform.
<b>“Trading Services”</b>	shall mean the trading services provided in accordance with the Trading Services Terms in Schedule A.
<b>“Transaction”</b>	shall mean transactions in such Authorised Investments as we may carry out on your behalf under this Agreement or that you may instruct us to execute for you (on an execution only basis), whether for purposes of the Account or in connection with any of the Services.
<b>“Treasury Department”</b>	shall mean the United States Treasury Department.
<b>“US Person”</b>	shall mean a United States citizen or corporation, a fiscal resident of the United States or a person liable to tax in the United States on any grounds whatsoever.
<b>“US Tax Code”</b>	shall mean the United States Internal Revenue Code of 1939, as amended.
<b>“Username”</b>	Shall have the meaning ascribed to it in <b>Paragraph 2 of Annex 2</b> .

## Annex 1

### Risk Disclosure Statement

1. You are fully aware of the risk relating to Transactions entered into. In particular, you understand that:
  - (a) your investments are not "capital protected" and therefore, you may lose your capital by entering into the Transactions;
  - (b) all Transactions, arrangements entered into and actions taken by us on your behalf will be made by us as your agent, for your sole account and at your sole risk;
  - (c) where the investments are traded on markets outside Australia, such investments are subject to the laws and regulations of the jurisdiction in which they are listed and you are aware of the risks involved with investing in such products, including but not limited to differences in regulatory regime and investor protection, differences in legal systems, jurisdiction-specific costs (including tax related costs), exposure to foreign counterparty and correspondent broker risks, and exposure to the political, economic and social developments and understand its contents;
  - (d) your payments or receipts under a Transaction will be linked to changes in the particular financial market or markets to which the Transaction is linked, and you will be exposed to price, currency exchange, interest rate or other volatility in that market or markets. You may sustain substantial losses on the investments if the market conditions move against your positions. It is in your interest to fully understand the impact of market movements, in particular the extent of profit/loss you would be exposed to when there is an upward or downward movement in the relevant rates, and the extent of loss if you have to liquidate a position if market conditions move against you. Your position may be liquidated at a loss, and you will be liable for any resulting deficit in your Account with us; and
  - (e) the fluctuations in foreign currency rates have an impact on the profit/loss and the investments where the Transaction is denominated or settled in a different currency from the currency where you carry on your ordinary business or keep your accounts.
2. You 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.
3. You 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 itself with all the terms and conditions of each investments and the risks involved, and agree that you will only accept our recommended Transactions on the basis of your own independent review and determination that the investments are suitable and appropriate for you, taking into account your specific objectives, financial situation, investment experience, knowledge and particular needs.
4. You agree and acknowledge 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) the nature and objective of the investments;
  - (b) the key benefits and risks of the investments;
  - (c) details of the providers of the investments;
  - (d) your key rights with respect to the investments;
  - (e) the intended investment horizon of the investments;
  - (f) the ease of converting the investments to cash;
  - (g) the expected level of your risk tolerance in respect of the investments;
  - (h) the commitment required from you in respect of the investments;
  - (i) the pricing of the investments;
  - (j) the fees and charges to be borne by you in respect of the investments;
  - (k) the frequency of reports to be provided to you in respect of the investments;
  - (l) any applicable charges or restrictions on withdrawal, surrender or claim procedures of the investments;
  - (m) any applicable warnings, exclusions and disclaimers; and
  - (n) information in relation to where the prospectus in respect of the investment (if applicable) may be accessed, or if we consider it appropriate, an abridged version of such prospectus.
- 5.** Unless you have a specific agreement with us for the provision of advisory services, you accept that our relationship with you in relation to the Trading Services is purely as execution only broker/dealer or as a counterparty to you. In either case, Syfe is not obliged to provide you with any financial advice and where our employees or representatives may answer your queries, such answers should not be assumed to be backed by any prior reasonable due diligence or research or be specifically suitable for reliance by yourself or to your specific financial situation, needs and objectives and you agree to verify the same with your independent advisers.
- 6.** You expressly acknowledge that you have the appetite to assume all economic consequences and risks of the investments and to the extent necessary, have consulted your own tax, legal and other advisers.
- 7.** You also acknowledge that we may have an interest in the subject of the report or recommendation, may be a counterparty to any investments entered into by you and/or may otherwise benefit from your investments.
- 8.** You also acknowledge that you have read our Privacy Policy and Terms and Conditions addendums on our website at <https://www.syfe.com/au>





## Annex 2

### Terms and Conditions of Platform Use

These terms and conditions of Platform use ("**Terms of Use**") (together with our Privacy Policy, and any other documents referred to in them) govern your use of and access to our electronic trading platform at [www.syfe.com/au](http://www.syfe.com/au) (the "**Platform**") and the Services (as defined below) provided therein.

**SYFE AUSTRALIA PTY LTD**, ABN 82 655 611 779, is a company incorporated in Australia, whose principal place of business is at L 2, 161 Collins Street, Melbourne, Victoria, 3000, referred to as "**we**" or "**us**" in these Terms of Use.

By using our Platform or downloading materials from our Platform, you accept and agree to be legally bound by these Terms of Use. **If you do not agree to be bound by these Terms of Use, please refrain from using our Platform or downloading materials from our Platform.**

If you have any comments or questions about these Terms of Use or our Platform, please contact us using the details shown on the Platform under "Contact".

#### 1. Access to our Platform

We provide services and information relating to investment advisory and management services (the "**Services**") on our Platform. All Services and trading activities shall be conducted in accordance with these Terms of Use and other applicable agreements including but not limited to the Agreement between us and you.

Access to our Platform is permitted on a temporary basis, and we reserve the right to withdraw or amend access to or use of our Platform for any reason without notice. We will not be liable to you or any third party if for any reason our Platform is unavailable at any time or for any period.

#### 2. Registration, Account IDs and Passwords

Access and use of the Platform is restricted to registered users only. You may not obtain or attempt to obtain unauthorised access to such parts of the Platform, or to any other protected information, through any means not intentionally made available by us for your specific use.

To be a registered user of our Platform, you must have entered into the Agreement with us and be our client. We may refuse to supply a particular client with an account ID and/or password, or may cancel a particular user account ID (or "**Username**") and/or password, at any time without providing reasons.

Your account is not transferable and may not be assigned to any third party. Sharing of your Username and password is strictly prohibited. You are responsible for maintaining the confidentiality of, and protecting and securing, your Username and password from unauthorised use and disclosure, and are fully responsible for all activities that occur under your account whether or not actually or expressly authorised and/or used by you. You are responsible for all statements made and acts or omissions that occur while your Username and passwords are being used. You agree to immediately notify us if any unauthorised third party has access to your Username or password or if there is any unauthorised use of your account or any breach of security known to you.

#### 3. Your use of our Platform



You may use our Platform only for lawful purposes. You may not use our Platform:

- (a) in any way that breaches any applicable law, regulation or code of practice;
- (b) in any way that is unlawful or fraudulent, or has any unlawful or fraudulent purpose or effect;
- (c) for the purpose of harming or attempting to harm minors in any way;
- (d) to send, knowingly receive, upload, download, use or re-use any material which:
  - (i) is defamatory, obscene, hateful, discriminatory or inflammatory;
  - (ii) promotes violence, discrimination or illegal activity; or
  - (iii) infringes any Intellectual Property Rights (as defined below), right of confidentiality or right to privacy;
- (e) to transmit, or procure the sending of, any unsolicited or unauthorised advertising or promotional material or any other form of similar solicitation (spam);
- (f) to generate and/or cause congestion to our network traffic in excess of reasonable and normal usage;
- (g) to cause any disruption, interference, interruption or degradation in our network and/or our Platform; or
- (h) to knowingly transmit any data, send or upload any material that contains any viruses, trojan horses, worms, time-bombs, keystroke loggers, spyware, adware or any other technologically harmful programs, data or code.

You also agree:

- (a) not to reproduce, duplicate, copy or re-sell the entire or any part of our Platform in contravention of these Terms of Use; and
- (b) not to access without authority, interfere with, damage or disrupt:
  - (i) any part of our Platform;
  - (ii) any equipment or network on which our Platform is stored;
  - (iii) any software used in the provision of our Platform; or
  - (iv) any equipment, network or software owned or used by any third party in connection with your use of our Platform.

From time to time, we may without penalty or liability, restrict access to some parts of our Platform, or our entire Platform, to users who have registered with us, at our sole and absolute discretion and without providing any reasons.

#### **4. Intellectual Property Rights in our Platform**

We are the owner or the licensee of the copyright and all other Intellectual Property Rights subsisting in our Platform and its content. Nothing herein or otherwise shall be construed as an assignment or transfer of our rights in the Intellectual Property Rights subsisting in our Platform and its content. All our rights are fully and expressly reserved.

For the avoidance of doubt, “**Intellectual Property Rights**” mean any copyright, rights in software, rights in databases, patents and rights in inventions, trade marks, rights in domain



names, designs, know-how, trade secrets and other rights in confidential information, in each case whether registered or unregistered including applications for registration and the right to apply for registration for any of the rights listed above that are capable of being registered anywhere in the world, and all other rights having equivalent or similar effect anywhere in the world.

You may print off and download extracts from our Platform for your own personal non-commercial use provided that (i) you do not modify any of the content; (ii) you do not use any graphics or photographs separately from their accompanying text; and (iii) you do not remove any copyright, trade mark notification or other proprietary notices (including these Terms of Use) from such extracts.

You must not use any part of the materials on our Platform for commercial purposes without obtaining a licence to do so from us or our licensors.

The content available on our Platform may not be reproduced, distributed, transmitted, published, displayed, broadcast, stored, adapted, licensed, altered, hyperlinked or otherwise used in any manner or by any means without our prior written consent. You may not, without our prior written consent, insert a hyperlink to our Platform (or any part thereof) on any other platform or "mirror" or frame any content available on our Platform on any other server or platform.

No licence or right is granted to you, and your access to our Platform and/or use of our Platform, should not be construed as granting, by implication, estoppel or otherwise, any licence or right to use the trademarks, tradenames or logos appearing on our Platform.

If you print off, copy or download any part of our Platform or its content in breach of these Terms of Use, your right to use our Platform will cease immediately and you must, at our option, return or destroy any copies of the materials you have made.

## **5. Reliance on Information**

Commentary and other materials or information posted on or otherwise made available via our Platform are not intended to amount to advice on which reliance should be placed. We do not warrant the accuracy or completeness of any information or materials on our Platform or the reliability of any statement or other information displayed or distributed through our Platform. We therefore exclude all liability and responsibility arising from any reliance placed on such materials or information by you, or by anyone who may be informed of any of its contents, and you acknowledge that any reliance on any such statement or information shall be at your sole risk.

You acknowledge that you have not relied on any statement, promise, warranty or representation made or given by or on behalf of us which is not set out in these Terms of Use, the Privacy Policy or any documents referred to in them. Nothing in this clause shall exclude or limit any liability for fraud or fraudulent misrepresentation.

## **6. Use of your personal information**

We will collect, use, disclose and/or process any personal information we may collect from you in connection with this Platform in accordance with our Privacy Policy. You acknowledge that you have accessed and read the Privacy Policy and agree to the terms set out in it.

## **7. Our liability**



This Platform and the information and content contained on it are provided "as is" without any representation or endorsement made and, to the maximum extent permitted by law, without warranty, representation, guarantee, condition or assurance of any kind whether express or implied (including without limitation any warranty that our Platform will be uninterrupted, available, defect-free or error-free, that the information and content contained on it is accurate, complete or of a satisfactory quality, and/or that the content contained on our Platform does not infringe the Intellectual Property Rights of any third party).

To the maximum extent permitted by law, we, any of our group companies, officers, directors, employees and shareholders and agents hereby expressly exclude any and all liability for:

- (a) any loss, damage or costs, whether direct or indirect, incurred or suffered by you or any third party in connection with our Platform or in connection with the use, inability to use, or results of the use of our Platform, including but not limited to any pure economic loss; or any loss of or damage to your hardware, data or information;
- (b) the content, information and material posted or made available on our Platform;
- (c) any loss or damage due to any interruption or cessation of transmission of our Platform;
- (d) any loss or damage due to any bugs, viruses, trojan horses or similar malware which may be transmitted to or through our Platform and the information and content contained on it by any third party;
- (e) any platforms, websites or resources linked to our Platform; and
- (f) any loss of any business of yours, including but not limited to loss of income or revenue, loss of business, loss of profits or contracts, loss of anticipated savings, loss of data or waste of management or office time.

This clause does not affect our liability for death or personal injury nor any other liability which cannot be excluded or limited under Applicable Law.

The security of communications sent over the internet (including by e-mail) is subject to many factors outside of our control. We do not guarantee the security or confidentiality of any electronic communications and shall not be responsible to you for any loss or damage that you may suffer as a result of the transmission of any such communications.

We shall have no liability for your inability to connect to or to access our Platform which may result from any faults, errors or problems relating to your PC hardware, software, network or security, or your internet service provider or any other similar problem.

## **8. Suspension and termination**

We will determine, in our discretion, whether there has been a breach of these Terms of Use through your use of our Platform. When we have determined that a breach of these Terms of Use has occurred, we may take such action as we deem appropriate.

Failure to comply with these Terms of Use may result in our taking all or any of the following actions:

- (a) immediate, temporary or permanent withdrawal of your right to use or access our Platform or any part of it;
- (b) issue of a warning to you;



- (c) legal proceedings against you for reimbursement of all costs on an indemnity basis (including, but not limited to, reasonable administrative and legal costs) incurred or suffered by us resulting from your breach of these Terms of Use;
- (d) further legal action against you; and/or
- (e) disclosure of such information to law enforcement or regulatory authorities as we reasonably feel is necessary or as required under applicable law.

We exclude liability for actions taken in response to breaches of these Terms of Use. The responses described in these Terms of Use are not limited, and we may take any other action we reasonably deem appropriate.

## **9. Viruses, hacking and other offences**

You must not misuse our Platform by knowingly introducing viruses, trojans, worms, logic bombs or other material which is malicious or technologically harmful. You further agree not to upload or launch any automated systems or software onto or within our Platform, such as “robots” or “spiders”. You must not attempt to gain unauthorised access to our Platform, the server on which our Platform is stored or any server, computer or database connected to our Platform. You must not attack our Platform via a denial-of-service attack or a distributed denial-of service attack.

We will report any such breach to the relevant law enforcement authorities and we will cooperate with those authorities by disclosing your identity to them. In the event of any such breach, your right to use our Platform will cease immediately.

We will not be liable for any loss or damage caused by a distributed denial-of-service attack, viruses or other technologically harmful material that may infect or affect your computer equipment, computer programs, data or other proprietary material due to your use of our Platform or to your downloading of any material posted or otherwise made available on it, or on any platform linked to it.

## **10. Links from our Platform**

This Platform may contain links to other platforms, websites and resources operated by third parties or our affiliates. These links are provided for your information only. We have no control over the content of and the information contained in those platforms or resources and accept no responsibility for them or for any loss or damage that may arise from your use of them. Use of such platforms is subject to the terms and conditions applicable to and displayed on such platforms.

## **11. Severability**

In the event that any of these provisions is found to be or become unlawful, invalid or otherwise unenforceable, that provision is to be deemed severed from these Terms of Use and shall not affect the legality, validity and enforceability of the remaining provisions of these Terms of Use. These Terms of Use shall continue in force as if such unlawful, invalid or unenforceable provision was severed from these Terms of Use.

## **12. No Waiver**

Any failure or delay by yourself or us in exercising or enforcing any right or remedy contained in these Terms of Use does not constitute a waiver by the party responsible for such delay or failure. It shall also not constitute a bar to the exercise or enforcement at any subsequent time or times.

## 13. How disputes are to be dealt with

Any disagreement, controversy or dispute in relation to the interpretation, application, breach or requirements of any provision of these Terms of Use (**Dispute**) must be referred for resolution in accordance with this clause 13 and this provision applies regardless of whether the relevant provision expressly indicates that the provision is subject to this clause 13.

Where a party wishes to raise any Dispute for resolution it must give notice to the other party of the Dispute in writing (**Dispute Notice**) and such notice, to be effective for the purposes of triggering the operation of this clause 13, must specify in writing that it is a Dispute Notice for the purposes of clause 13 of this Agreement.

Within 14 days after a Dispute Notice is given, each party must nominate in writing a representative authorised to settle the Dispute on its behalf.

Within the 14-day period after a Dispute Notice is given (or a longer period agreed between the parties) (**Initial Period**), each party (through its representative) shall use its best efforts to resolve the Dispute.

If the Dispute is not resolved by the parties within the Initial Period, then the parties must, within a further 10 Business Days, refer to the matter to an agreed mediator (in the absence of agreement, a mediator nominated by the President of the Law Society of New South Wales).

The parties must use reasonable endeavours to engage and complete such mediation within 21 days of the day the matter is required to be referred to a mediator under this clause 13.

Each of the parties will use their reasonable endeavours to co-operatively resolve a Dispute notified in a Dispute Notice.

No party may commence any legal proceedings against the other party (other than as permitted under this clause 13) unless the Dispute has first been notified in a Dispute Notice to the other party under and in accordance with this clause 13 and the requirements of this clause 13 have been complied with.

Decisions of the representatives of the parties agreed in writing will be binding on the parties.

The fees, charges and disbursements of any mediator appointed pursuant to this clause (including costs of facilities, materials, disbursements and per diems and other travel related costs and charges) must be shared by the parties equally.

Except for the costs of the mediator, each party will bear its own costs incurred in relation to the mediation.

Prior to and during the resolution of a Dispute, the parties will continue to perform their respective obligations under these Terms of Use.

If the Dispute is not resolved by the parties pursuant to this clause 13 then either party may take such other action as it sees fit, including commencing legal proceedings.

Nothing in this clause 13 operates to prevent a party from obtaining urgent interlocutory relief in respect of any matter or other thing the subject of or connected with a Dispute (including a breach or threatened breach of this clause 13 or any other provision of these Terms of Use).

For the avoidance of doubt, nothing in this clause 13 is intended to limit or prejudice your ability to access our internal or external dispute resolution arrangements.



**14. Entire Agreement**

The Terms of Use supersede any previous agreement between the parties in relation to the matters dealt with herein and represents the entire understanding between the parties in relation thereto.

**15. Applicable Law and Jurisdiction**

All questions pertaining to the construction and interpretation of these Terms of Use and relating to the performance of any of the obligations or duties set forth herein by either of the parties hereto shall be determined in accordance with the laws of New South Wales, Australia.

**16. Order of Precedence**

In the event of any inconsistency between the Agreement and these Terms of Use, the terms of the Agreement will prevail.

**17. Changes to these Terms of Use**

We may revise these Terms of Use at any time by amending this page. You are expected to check this page from time to time to take notice of any changes we have made, as they are binding on you. Some of the provisions contained in these Terms of Use may also be superseded by provisions or notices published elsewhere on our Platform. Your continued access and/or use of the Platform following any amendment of these Terms of Use will signify your assent to and acceptance of its revised terms.



## Annex 3

### Privacy Policy

**SYFE AUSTRALIA PTY LTD** (collectively referred to as “**we**” or “**us**” in this Privacy Policy), with assistance from third parties, operate the electronic trading platform at [www.syfe.com/au](http://www.syfe.com/au) (the “**Platform**”) and the Services (as defined below) provided therein. We are committed to respecting and protecting your personal information collected through or in connection with our Platform.

#### 1. Introduction

We take our responsibilities under the *Privacy Act 1988* (Cth) (**Privacy Act**) seriously. We also recognise the importance of the personal information you have entrusted to us and believe that it is our responsibility to properly manage, protect and process your personal information.

This Privacy Policy is designed to assist you in understanding how we collect, use, disclose and/or process the personal information you have provided to us, as well as to assist you in making an informed decision before providing us with any of your personal information.

“Personal information” is any information that can identify you or that can reasonably enable your identity to be determined. This information could include your name, postal or email address, date of birth, financial details, Tax File Number and/or Australian Business Number.

Personal information includes “sensitive information”. Sensitive information is any information, or an opinion concerning about your racial or ethnic origin, political opinions, membership of a political association, religious beliefs or affiliations, philosophical beliefs, membership of a professional or trade association, membership of a trade union, sexual preferences or practices or criminal record. It also includes health or genetic information, biometric information and biometric templates.

If you, at any time, have any queries on this policy or any other queries in relation to how we may manage, protect and/or process your personal information, please do not hesitate to contact our Privacy Officer at the contact details below.

This Privacy Policy (together with our Terms and Conditions of Platform Use) sets out the basis on which we use and process any personal information we collect from you as a user of our Platform. By accessing our Platform and/or using the services and information on our Platform (regardless of whether you open an Account), you hereby agree to be bound by the terms of this Privacy Policy.

In addition, our Platform may, from time to time, contain links to and from the platforms or websites of our partner networks, advertisers, affiliates or other third parties. If you follow a link to any of these platforms or websites, please note that the operators of these platforms’ websites have their own privacy policies. As these platforms and websites are not owned or operated by us, we do not accept any responsibility or liability for the contents of these platforms or websites and their operators’ privacy policies and you access and provide your personal information to these third party platforms or websites at your own risk. Please check the relevant privacy policies before you submit any personal information to any such platforms or websites.

#### 2. Personal information we collect





We may collect and process personal information about you in all of our interactions with you, including the following:

- (a) You are likely to provide personal information to us when signing up to be our client (regardless of whether the sign-up process is completed by you) and using our Platform. This includes but is not limited to your name, email address and other contact details.
- (b) If you contact us for any reason, we may keep a record of that correspondence which contains personal information.
- (c) Your personal information may be captured via any error logging and reporting tool that captures error report data and, at your option and with your consent, this data may be sent to us in order for us to be informed of any software errors or problems that may occur during your use of our Platform or the Services provided on it.
- (d) Details of your visits to our Platform, the activities you engage in when accessing our Platform and the Services that you use or access on or via our Platform may also be captured – for example your internet protocol (IP) address, device identifiers, browser type, operating system, internet service provider, location, mobile network information, pages accessed, time stamps and your online transaction history.

In certain situations, the personal information we collect may (where appropriate and where it is permitted by law) include sensitive information.

We will only collect “sensitive information” if you have consented to the collection of the information and the information is reasonably necessary for one or more of our functions or activities or if the collection of sensitive information is authorised or required by a court/tribunal order or an Australian law, including the following Australian laws:

- *Anti-Money Laundering and Counter-Terrorism Financing Act 2006* (Cth);
- *Corporations Act 2001* (Cth);
- *Income Tax Assessment Act 1936* (Cth) and *Income Tax Assessment Act 1997* (Cth);
- Privacy Act.

We will generally collect your personal information as much as possible directly from you. For example, we collect information about you when you complete your application form.

From time to time we may obtain personal information about you from third parties (for example, identity verification service providers, publicly or commercially available sources or third parties you have authorised us to contact) for the purpose of complying with legislative obligations, such as anti-money laundering laws.

### **3. Cookies**

We use cookies on our Platform. A cookie is a text file that a website transfers to your computer's hard disk so that the website can remember who you are. Cookies only record those areas of a website that have been visited by your computer and for how long.

You have the ability to accept or decline cookies by modifying the setting in your browser. If you would like to do this, please see the help menu of your browser. However, you may not be able to use all the interactive features of our Platform if cookies are disabled.



We do not store or collect cookie information. Once we receive information from you, via email or any other means, the information is stored in a secure environment.

#### **4. How we use your personal information**

We may use your personal information that we possess to provide, personalise, maintain and improve our Platform and Services, including for the following purposes:

- (a) to process, administer and/or manage your client account with us, facilitate and/or enhance your experience, and contact you as may from time to time be necessary in connection with your use of our Platform and/or the Services made available on it (including the sign-up process);
- (b) to contact you using the contact information provided by you in order to provide you with information that you request from us;
- (c) to manage and administer your use of our Platform and/or Services, including to resolve user support issues, and contact you as may from time to time be necessary in connection with your use of our Platform and/or Services;
- (d) to collect information relating to your online interactions with us (including, for example, your IP address and the pages you view) so that we can offer you a more consistent and personalised experience in your relationship with us and better serve your needs by customising the content that we share with you;
- (e) to store, host and/or back up (whether for disaster recovery or otherwise) your personal information, whether within or outside Australia;
- (f) for record-keeping purposes;
- (g) to conduct research, analysis and development activities (including but not limited to data analytics, surveys and/or profiling) to improve our Platform, services and facilities in order to enhance the services we provide to you;
- (h) to perform credit risk, know-your-customer, anti-money laundering / countering the financing of terrorism, financial and other relevant risk assessments and checks on you; and
- (i) to market our and our partners', sponsors' and advertisers' products, services, events or promotions, including to send you alerts, newsletters, updates, mailers, promotional materials, special privileges, festive greetings, etc.. We may communicate such marketing to you by post, email, telephone call, short message service, online messaging service, push notification, or by hand. You may unsubscribe to the use of your personal information for marketing and promotions by clicking on "Unsubscribe" in the relevant email or message

We may also use your personal information for legal and company administration purposes, including:

- (a) to investigate and resolve claims or disputes;
- (b) to protect the rights, property or safety of any person (including for the purposes of fraud detection and prevention);
- (c) when we are required, advised, recommended, expected or requested to do so by our legal advisors or any local or foreign legal, regulatory, governmental or other

authority, statutory boards, related companies, including for any audit, compliance, investigation or inspection purposes;

- (d) to comply with court orders, applicable law, regulation, legal process or government request;
- (e) to enforce or apply our Terms of Use and/or Agreement, or any other arrangements with you;
- (f) to respond to legal process, pursue legal rights and remedies, defend litigation and managing any complaints or claims; or
- (g) in connection with mergers, acquisitions, joint ventures, sale of company assets, consolidation, restructuring, financing, business asset transactions, or acquisition of all or part of our business by another company.

## **5. Disclosure of your information**

Your personal information may be used, disclosed, maintained, accessed, processed and/or transferred to the following third parties, whether located in Australia or outside of Australia for one or more of the purposes set out in paragraph 4 above:

- (a) our related group companies;
- (b) third party service providers responsible for the processing of your data, for example, third party service providers which have been engaged by us to: (i) to provide and maintain any IT equipment used to store and access your personal information; (ii) to host and maintain our Platform; (iii) to conduct research, analysis and development activities (including but not limited to data analytics, surveys and/or profiling) to improve our Platform, Services and facilities in order to enhance the Services we provide to you; (iv) to advise us in connection with the activities carried out pursuant to our Platform and/or Services; or (v) otherwise in connection with the provision of certain services provided to you on or via our Platform;
- (c) our broker, auditors and legal advisors;
- (d) public and governmental/regulatory authorities, statutory boards and industry associations; or
- (e) courts and other alternative dispute forums.

In certain circumstances we may provide third parties (whether or not located in Australia) with aggregate information about our Platform's users. This may include information about your computer, including (where available) your IP address, operating system and browser type, for system administration and to report aggregate information to our advertisers. This is anonymised statistical data about our users' browsing actions and patterns, and does not identify any individual.

We may require your consent to use and/or disclose your personal information if we need to use your information for a purpose that is not related to the purpose for which it was collected.

If you do not consent to us collecting, using and/or disclosing your personal information for such other purposes, this may affect our ability to deliver and improve our Platform and/or Services, or to provide Services to you.

## **6. Protection of your personal information**



We have implemented reasonable and appropriate physical, technical and administrative measures to store and protect your personal information from unauthorised access and use. Access to your personal information is limited to authorised personnel only and on a need-to-know basis.

Notwithstanding the foregoing, you acknowledge that no method of protection and/or transmission over the Internet or method of electronic storage is completely secure. While security cannot be guaranteed, we endeavour to protect the security of your personal data and are constantly reviewing and enhancing our information security measures.

## **7. Transfer of your personal information outside Australia**

The personal information that we collect from you may be transferred to, used, processed and stored outside of Australia for one or more of the purposes set out above. By submitting your personal information and/or using our Platform, you agree and consent to such transfer, storing or processing.

We have entered into contractual undertakings to ensure that the personal information which we collect from you and transfer to our service providers (whether or not located in Australia) is adequately protected.

Please note that the laws on processing personal information in other countries may be less stringent than in Australia. When we disclose your personal information overseas, we will adopt reasonable measures to ensure that your information is held, managed and accessed in accordance with the standards that apply in Australia, including the Australian Privacy Principles.

We will take reasonable steps to maintain appropriate physical, technical and administrative security to help prevent loss, misuse, unauthorised access, disclosure or modification of your personal information. Such steps could include, but are not limited to, ensuring that third party service providers are compliant with recognised cybersecurity standards such as those set out by the International Organisation for Standardisation (ISO 27001) or the System and Organisational Controls (SOC 2). We will review, update and monitor these measures on a regular basis.

The people within our organisation who handle your personal information are only those who have the need to access it and they have the training and skills to protect your personal information from unauthorised access or misuse.

## **8. Retention period of personal information**

We may retain your personal information for as long as it is necessary to fulfil the purpose for which it was collected, and in accordance with applicable laws.

When we no longer need your personal information, we will seek to delete, destroy or de-identify it in accordance with our record retention policy and any applicable laws.

## **9. Updating your information**

Where you provide your personal information on our Platform, you should try to ensure such personal information is accurate, and let us know if it changes so that we are not holding any inaccurate personal information about you.

## 10. Your rights

If it is lawful and practicable, we offer you the opportunity to deal with us anonymously or by using a pseudonym. For example, we can provide general information to you about our products or services, or general guidance on how to fill out our forms without collecting any personal information from you.

However, if we are unable to collect and/or verify some or all of your personal information, we may not be able to enter into a business relationship with you or provide certain Services to you. In order for us to provide our Services to you it is normally impracticable for us to deal with you anonymously or by using a pseudonym. For example if you do not provide your personal information to us, we will be unable to properly administer your account or adequately provide our Services.

You may withdraw your consent for us to collect, use, disclose and/or process your personal information for some or all of the purposes listed in this Privacy Policy. However, depending on the nature and scope of your request, we may not be able to continue providing our Services to you and we shall, in such circumstances, notify you before completing the processing of your request. Withdrawing consent does not affect our right to continue to collect, use, disclose and/or process personal data where such collection, use, disclosure and/or processing without consent is permitted or required under applicable laws.

Upon receipt of your written request to withdraw your consent, we may require reasonable time (depending on the nature and scope of your request and its impact on our relationship with you) for your request to be processed and for us to notify you of the relevant consequences, including any legal consequences which may affect your rights and liabilities. In general, we will endeavour to process your request within ten business days from receipt.

You may request to access and/or correct the personal information currently in our possession by writing to the Privacy Officer using the contact details provided below. Please note that we may charge you a reasonable fee for the handling and processing of your requests to access your personal information. We will endeavour to process or respond to your request (where necessary) within thirty business days from receipt.

We will provide you with access to your personal information in accordance with the Privacy Act. We may seek to verify your identity before we process any access requests to make sure that the personal information we hold about you is sufficiently protected.

Under the Privacy Act we can deny access to some or all of your personal information in specified circumstances, and we will provide reasons for any refusal in writing. If you are not satisfied with any refusal to grant you access to your personal information, you may make a complaint (see section 12).

## 11. Changes to this Privacy Policy

We reserve the right to amend the terms of this Privacy Policy at our absolute discretion. Any amended document will be posted on our Platform and we may notify you when significant changes are made. You are expected to check this page from time to time to take notice of any changes we have made as they are binding on you. Your continued use of our Platform and/or the services made available on or via our Platform following any amendment will signify your assent to and acceptance of its revised terms. You can also contact us to obtain an up to date copy of this Privacy Policy.

## 12. Further information about protection of personal information



If you want to contact us with specific queries or concerns in relation to this Privacy Policy, or if you have any questions or complaints as to how your personal information is collected, used, disclosed, protected and/or processed by us, please contact our Privacy Officer at:

Email: [compliance.au@syfe.com](mailto:compliance.au@syfe.com)

Phone: 1800 577 398

Mail: L2, 161 Collins Street,

Melbourne VIC 3000.

If you are not satisfied with the manner in which we deal with your complaint you may refer it to the Office of the Australian Information Commissioner (**OAIC**). You can contact the OAIC:

**Online:** by visiting [www.oaic.gov.au](http://www.oaic.gov.au)

**Email:** [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

**Phone:** 1300 363 992

**Mail:** GPO Box 5218

Sydney NSW 2001

## Schedule A

### Trading Services Terms

#### 1 General

- 1.1** This Schedule shall govern your use of and access to the Platform for the purpose of utilising the Trading Service and our involvement in facilitating the provision of Custody Services. These Trading Services Terms shall form part of the Agreement.
- 1.2** All capitalised terms which are not defined in these Trading Services Terms shall have the same meaning as in the Agreement. In the event of any conflict or inconsistency between the provisions of the Agreement on the one hand and the provisions of these Trading Services Terms on the other hand, the provisions of these Trading Services Terms shall prevail to the extent of such conflict or inconsistency.

#### 2 Scope of Trading Service

- 2.1** While information may be shared with you by Associates of Syfe, it is to be used solely for educational purposes. Syfe and its Associates and representatives or other Delegates appointed by it, do not make recommendations or solicitations, or offer tax advice or investment advice under the Trading Service.
- 2.2** You acknowledge that all trading tools and materials available on the Platform are to be used only for information and educational purposes. You further acknowledge that any examples included with or given in relation to such tools are also for educational or instructional purposes. Syfe makes no warranties to the accuracy of these trading tools nor to any conclusions derived from or investment decisions based on information provided by such trading tools.
- 2.3** You hereby agree and acknowledge that as the Platform is online and execution only, Syfe will act on an execution only basis and will not be providing any financial advice to you in relation to any Authorised Investment.
- 2.4** Syfe is not a fiduciary to you, nor does Syfe take on any fiduciary obligations in relation to any Authorised Investments. Syfe does not and is not willing to assume any advisory, fiduciary or similar or other duties or act as investment adviser to you. Syfe strongly encourages you to take independent advice before purchasing, subscribing, disposing of, or entering into any Authorised Investments.
- 2.5** You acknowledge that past performance of any Authorised Investments or class of investment products is no indicator of future performance. In addition, and without prejudice to the generality of the foregoing, you agree and acknowledge, and you represent and warrant to Syfe (and Syfe relies on such representations and warranties) that:
- 2.5.1** you are aware that Syfe does not hold out any of its agents, nominees, directors, officers, or employees as having any authority to advise you;
- 2.5.2** Syfe does not purport to advise you on any financial product or investment;
- 2.5.3** you are acting for your own account and have made your own independent decision to enter into Transactions, and you are not relying on any communication (written or oral) of Syfe as investment advice or as a recommendation to enter into any Transaction (it being understood that information and explanations related to the

terms and conditions of a Transaction will not be considered investment advice or a recommendation to enter into that Transaction);

- 2.5.4 Syfe does not provide advice with respect to any legal or tax ramifications of any financial product or investment and you shall obtain your own appropriate tax, legal, financial or other advice from an independent tax, legal or financial adviser;
- 2.5.5 Syfe's making the Platform available to you should not be taken to constitute a recommendation and/or an endorsement of any financial product or other investment, any form of advice or a determination of suitability of any financial product or other investment for you by Syfe or its representatives, or any representation in respect of any financial product or other investment;
- 2.5.6 you are aware of the risks associated with any investment undertaken by you, and you are fully aware and accept that you will be solely responsible for determining the merits and suitability of each and every Transaction;
- 2.5.7 you have not obtained from Syfe any guarantee or assurances as to the profitability, performance, and/or results of any financial product or other investment;
- 2.5.8 Syfe shall not be held responsible in any way whatsoever for the performance of any financial product or other investment which you have chosen to subscribe for, including any losses which you may incur in your investment;
- 2.5.9 Syfe has not and will not authorise its employees to provide any representations on, or any assurance or guarantees (orally or in writing) on the performance of any financial product or other investment for the purpose of encouraging you to subscribe or purchase interests in any investment;
- 2.5.10 any information given to you regarding Authorised Investments or any other investment products is incidental to Syfe's brokerage business and shall be for informational purposes only; and
- 2.5.11 if you require financial advisory services in relation to any financial product or investment, you shall obtain appropriate financial advisory services from an independent financial adviser.

### **3 Orders and instructions relating to the Trading Service**

- 3.1 Syfe will execute orders for Transactions in securities and interests in managed investment schemes on your behalf, at your risk and upon your specific Instructions, provided that the securities and interests in managed investment schemes are of a type and are traded on markets in which Syfe is prepared at its discretion to transact.
- 3.2 You expressly acknowledge and agree that it is your responsibility to understand how an order operates and the relevant rules and regulations of the exchanges in which the orders may be routed to before you place any such order with Syfe and you are solely responsible for ensuring the accuracy and completeness of all Instructions.
- 3.3 Syfe is not obliged to act on any of your Instructions or enter into any Transaction with you for any reason and without giving any reason therefor and Syfe shall not be responsible for or liable to you whatsoever as a result of such refusal to act, including but not limited to if: (i) any Instructions are, in Syfe's opinion, incomplete, unclear, conflicting, ambiguous or inconsistent with any other Instructions; (ii) any Instructions might cause Syfe to contravene any Applicable Laws (whether or not having legal and binding effect); (iii) Syfe has any doubt





on the authenticity, clarity or completeness of the Instructions; and (iv) the form or content of such Instructions is not in accordance with the requirements or policies or practices as prescribed by Syfe from time to time. Syfe reserves the right to cause any of your orders to be routed for execution to one or more exchanges if Syfe's Broker, in its discretion, determines that the same will result in the best execution of your order. We consequently cannot and do not warrant that our prices or the prices we secure for you for such transactions are or will at any time be the best price available to you. We may make a profit from a transaction with you no matter what result the transaction has from your point of view.

- 3.4** Syfe will not accept orders by phone, fax or email. All orders **MUST** be entered via our Platform.
- 3.5** You understand, acknowledge and agree that Syfe, its affiliates, its Brokers, or other persons connected with any of them may be (i) assuming the role of the counterparty and dealing as principal for its own account; or (ii) acting as agent or trustee or Delegate for the counterparty in relation to the products, investments, or transactions which you transact in through or with the assistance or involvement of Syfe.
- 3.6** You hereby irrevocably and unconditionally consent to Syfe's acting in such capacities or position of conflict and hereby authorise Syfe to continue to enter into such transactions for you without prior notice before executing your Instructions and despite Syfe acting in such capacities or position of conflict. You confirm that notwithstanding any such conflict of interest and any remuneration, profits, Fees, commissions, rebates, discounts, or other benefits or advantages (whether financial or otherwise) which Syfe may make or receive in respect thereof, you will have no claim against Syfe for, and Syfe shall be entitled to retain and shall have no obligation to disclose to you or any other person (and you or any other person shall not be entitled to ask for disclosure of) the fact or amount of any monetary gain or whatsoever. You also agree that Syfe will not be responsible for any losses including loss of profit, or damage which may result from any such conflict.

## **4 Market data**

- 4.1** You hereby acknowledge and agree that for any market data or other information that Syfe or any of Syfe's third party service provider (collectively referred as "**the market data providers**") provide to you in connection with your use of our Platform, you agree that:
- 4.1.1** all market data is protected by copyright laws. You understand and acknowledge that the market data providers have a proprietary interest in the market data that originates on or derives from it or its markets. Syfe provides market data for your personal non-commercial use; you will not sell, market, retransmit, publish or redistribute it in any way, unless you have entered into appropriate written agreements with the relevant market data providers;
- 4.1.2** the terms and conditions market data owners impose on market data users or subscribers will apply to you where required and/or applicable. These terms and conditions may be found at <https://www.syfe.com/au/legal?rp=ls> (or as may be amended from time to time). We may revise or replace the terms and conditions at any time, and you are expected to check the website from time to time to take notice of any changes made, as they are binding on you. Your continued access and/or use of the Platform following any amendment of the terms and conditions will signify your assent to and acceptance of the revised terms;

- 4.1.3 Syfe and its market data providers shall not be liable for the accuracy, completeness, timeliness or correct sequencing of the market data;
- 4.1.4 Syfe and its market data providers shall not be liable for any interruptions in the availability of market data or your access to market data;
- 4.1.5 the market data is provided “as is” and on an “as available” basis. There is no warranty of any kind, express or implied, regarding the market data;
- 4.1.6 the market data does not constitute financial advice and Syfe is therefore not acting as a financial adviser when it provides you with market data;
- 4.1.7 Syfe and its market data providers are not responsible or liable for any actions that you take or do not take based on such data or information;
- 4.1.8 Syfe is not responsible for, and you agree not to hold liable Syfe or its market data providers for, lost profits, trading losses, or other damages resulting from inaccurate, defective, or unavailable market data;
- 4.1.9 in any case, Syfe’s liability arising from any legal claim (whether in contract, tort or otherwise) relating to the market data will not exceed the amount you have paid for the use of the Services or market data;
- 4.1.10 you will use such data or information solely for the purposes set out in this Agreement and in compliance with the Applicable Laws;
- 4.1.11 you will pay such market data fees and any applicable taxes (if applicable) associated with your use of our Platform or use of market data as Syfe may reasonably charge from time to time;
- 4.1.12 you will notify us if you are not or are no longer a non-professional user for market data purposes;
- 4.1.13 Syfe may require you to comply with certain conditions in relation to your use of the market data;
- 4.1.14 Syfe may require you to provide us with information in relation to you or your use or intended use of market data;
- 4.1.15 Syfe may, at its discretion, remove your access to market data at any time; and
- 4.1.16 Syfe may correct any execution reported to you that was based on inaccurate market data provided to Syfe by an exchange or market centre.

There is no warranty of merchantability, no warranty of fitness for a particular purpose and no warranty of non-infringement, and there is no other warranty of any kind, express or implied, regarding the market data.

## **5 Reports, summaries and analysis by Syfe**

- 5.1 Other than statements of fact, any ratings, reports, summaries or analysis of whatsoever nature (and whether oral, published as research or otherwise) made available to you by Syfe are merely expressions of Syfe’s or third-party analysts’ views or opinions. Although Syfe will take reasonable care to ensure that no such rating, report, summary or analysis is untrue or misleading at the time of publication thereof:- (a) no guarantee is given by Syfe as to its accuracy or completeness; (b) as such ratings, reports, summaries or analysis are not prepared with individual customers or classes of customers in mind, they are to be treated



as general views and opinions only and are not suitable for use by individual customers or classes of customers without independent verification and advice; and (c) each such view or opinion is subject to change without notice.

- 5.2** Subject to the limitations set forth by mandatory provisions of applicable laws and regulations, we may, upon your request or otherwise provide you with information regarding the Authorised Investments or market driven trading ideas, research or commentary without considering your personal circumstances such as financial situation, needs, risk tolerance or knowledge, investment experience and investment objectives.
- 5.3** Such information shall be made available to you through the Platform. To the extent permitted under Applicable Laws, you acknowledge and agree that such information is provided for informational purposes and should not be relied upon as financial advice.
- 5.4** Subject to the limitations set forth by mandatory provisions of Applicable Laws, we may in our sole and absolute discretion, upon your request or otherwise, provide you with independent economic and investment analyses from third party analysts which may also relate to Authorised Investments (with or without buy/hold/sell views from third party analysts).
- 5.5** The extent and frequency of this information may vary depending on your preferences and market circumstances. These economic and investment analyses are of a general nature and do not relate to the Account or your personal circumstances such as financial situation, objectives, needs, risk tolerance or knowledge and, unless the context requires otherwise, they do not represent investment advice.

## **6 Risks**

- 6.1** Computer-based systems such as those used by Syfe are inherently vulnerable to disruption, delay or failure. You acknowledge that Syfe may not be able to execute your orders if the Platform is unavailable.
- 6.2** You acknowledge that some electronic markets permit continuous trading and that access to those markets may not be provided by Syfe or its Delegates. Under no circumstances shall Syfe or its Delegates bear any liability to you for any losses that may result from the inability to access markets due to such restrictions. You shall bear sole responsibility for the cancellation of all unexecuted orders that can be executed during market hours for which access is not provided by Syfe or its Delegates. If Syfe or its Delegates believe that execution or attempted execution of any order might contravene any Applicable Law or violate internal policies or for any other reason whatsoever, Syfe or its Delegates in their sole and absolute discretion, may delay or refuse to execute any Transaction, at any time.
- 6.3** You accept that the Authorised Investments purchased by you may be delisted. In the event of a delisting, we may, but are not obliged to provide you with notice. You acknowledge that steps may have to be taken by you to preserve the value of your investment in the event of delisting. Syfe shall not be held responsible in any way whatsoever for any losses you may incur arising out of or in connection with any delisting event.

## **7 Trading limits and restrictions**

- 7.1** Syfe may in its sole and absolute discretion without giving any reason or without notice to you, at any time and from time to time impose, remove or amend any trading or Transaction restrictions or any limits, including position limits, Transaction limits and limits on contract

size in respect to any Account upon you. No previous limit or restriction shall set a precedent or bind Syfe. You undertake to comply with and shall not breach or exceed such restrictions and limits as imposed on you by Syfe and any other trading restrictions or positions limits under Applicable Laws, including those imposed by any exchange or market or clearing house. If you exceed any trading restriction or position limit, Syfe is authorised to disclose your identity and your positions, and/or liquidate any of your positions.

## **8 Sale of Authorised Investments**

- 8.1** Syfe shall not be under any obligation to act on any Instructions to sell any Authorised Investments (or enter into any Transaction in which Authorised Investments must be delivered) unless sufficient such Authorised Investments or other assets are held in your name (or held on your behalf by a Custodian) or are due to be credited to your Account under any purchase Transactions which are not subject to any charge, lien, or other security interest in favour of any person including Syfe. On receipt of any Instruction to sell Authorised Investments, Syfe shall be entitled to debit the relevant Account with the relevant Authorised Investments on or (at Syfe's discretion) at any time before completion of the said sale. You acknowledge that you shall not be entitled to withdraw or in any way deal with all or any part of Authorised Investments or assets until completion of the said sale.
- 8.2** You agree that Syfe may transact, purchase, or sell any Authorised Investments for you at a single price or rate quoted to you which includes part of Syfe's and any of its agents' fees, charges or commissions, payment of which will be deducted from such price or rate.

## **9 Facilitation of Custody Service**

- 9.1** You authorise and appoint Syfe as your agent and attorney to:
- 9.1.1** if you have not done so yourself, appoint a Custodian on your behalf to receive and hold legal title to Authorised Investments purchased pursuant to the Trading Service; and
  - 9.1.2** provide proper instructions to the Custodian on your behalf with respect to transactions relating to Authorised Investments purchased or to be purchased pursuant to the Trading Services,

You acknowledge that, if you are asked to and choose to accept the Custodian's Custody Terms, those Custody Terms will govern your legal relationship with the Custodian and will be binding as between you and the Custodian.

- 9.2** Syfe will be responsible for:
- 9.2.1** receiving Instructions from you with respect to Authorised Investments and arranging for the Custodian to take appropriate action on your behalf to give effect to those Instructions – for example: purchasing or selling any Authorised Investments; making an election to reinvest any dividend or distribution payment; responding to any corporate action (for example, a takeover bid or an offer of securities at a discount to existing holders);
  - 9.2.2** holding any cash balance on your behalf in a segregated trust account together with cash balances held for other clients;
  - 9.2.3** arranging for funds to be transferred to and from the segregated trust account in connection with the settlement of transactions relating to Authorised Investments

which are held by the Custodian and purchased or sold pursuant to the Trading Service; and

9.2.4 funds transfers between the segregated trust account and your own nominated bank account in accordance with your Instructions.

9.3 You acknowledge that the Custodian may hold Authorised Investments purchased for you in an omnibus account (including with a third party custodian), which may be aggregated with other Authorised Investments of our other clients or their other clients. While the Custodian will maintain records, as your Authorised Investments may be commingled with Authorised Investments of our other clients or their other clients, your Authorised Investments may not be identifiable by separate records or certificates.

## 10 Payment of Dividends, Distributions and Interest

Any assets which pay dividends, distributions or interest will declare a record date to establish entitlement for such payment. Syfe shall arrange for the Custodian which holds those assets to claim all amounts in respect of dividends, distributions or interest pertaining to your Authorised Investments held in custody by the Custodian which are known to Syfe to be payable. Such amounts shall be paid to you or held in a segregated trust account with Syfe as and when they are actually received, but neither Syfe nor the Custodian shall be responsible for claiming any other distribution or entitlement or benefit you may have on your behalf, or for taking up or exercising any conversion rights, subscription rights or other rights of any nature, dealing with takeover or other offers or capital reorganisations. Syfe and/or the Custodian may execute in your name whenever it deems it appropriate such documents and other certificates as may be required to obtain the payment of income from your Authorised Investments or the sale thereof.

## 11 Exercise of any right and power

In relation to Authorised Investments Syfe or its Broker holds for your Account, Syfe may but is under no obligation to inform you of:

- corporate actions (including any dividend elections, rights issue, delisting event, etc.);
- the dates on which any shareholders' or bondholders' meetings of the companies will be held;
- the items on the agendas of such meetings;
- any notices, proxies, or proxy soliciting materials in relation to such Authorised Investments; or
- any voting rights attached to the Authorised Investments.

Syfe will ordinarily not take any action in relation to any of the above matters unless you have given, and Syfe has accepted at its sole discretion, Instructions to this effect. Syfe reserves the right to refuse to act on any such Instruction without any reason. Syfe shall bear no liability for anything done or not done in its discretion.

If you do not provide any such Instructions, Syfe is not precluded from taking any action in relation to doing any of the matters referred to above at Syfe's discretion. Syfe will have no liability for anything done or not done in its discretion.

## **12 Delivery of Authorised Investments**

All Authorised Investments delivered or to be delivered to Syfe or the Custodian from time to time for the purposes of this Schedule must be in the required or regular form and in good delivery order, or must be transferred and deposited into such account as Syfe shall direct. Where applicable, all unmatured coupons and duly executed transfers must be attached thereto.

## **13 Return of Authorised Investments**

**13.1** You shall not have any right to specific Authorised Investments held with or through Syfe or the Custodian, but will be entitled, subject to this Agreement, to delivery of Authorised Investments of the same class, denomination and nominal amount, and which rank pari passu with those accepted by Syfe or the Custodian as being the Authorised Investments, subject always to any capital reorganisation or share exchange which may have occurred. Such delivery may be to you or any specified third party.

**13.2** All monies and/or Authorised Investments in the Account shall be subject to a general lien in favour of Syfe or the Custodian for the discharge of all or any indebtedness and other obligations on your part to Syfe or the Custodian. You shall not be entitled to withdraw any monies or withdraw or dispose of such monies or Authorised Investments held by Syfe or the Custodian pending the repayment or satisfaction in full to Syfe of any indebtedness or obligation on your part to Syfe.

**13.3** We may set-off from your Account against and in whole or partial payment of any sum or liability owed by you to us.

## **14 Orders and Instructions relating to the Custody Service**

**14.1** Syfe is not obliged to act on any Instructions (oral or otherwise) from you in respect of any Account or any part or all of the Authorised Investments. In the event that Syfe acts on any Instructions from you in its sole and absolute discretion in respect of the Account (including to transfer into or out of the Account any Authorised Investments or other instructions), Syfe is entitled to charge you a fee for accepting and executing such Instructions, which shall be notified to you. Syfe shall not be required to act in accordance with any Instruction from you which purports to dispose of or deal with any securities or other property which are in fact not held in any Account and/or which are not in fact held in custody by Syfe and/or the Custodian.

**14.2** Syfe shall only be required to act on or effect any Instruction from you within a reasonable time. For the avoidance of doubt, in the event that you wish to withdraw any part or all of the Authorised Investments, you shall give at least seven (7) Business Days' notice to Syfe prior to such withdrawal.

**14.3** Any Instructions (oral or otherwise) purported to be given by any person other than you, need not be acted on by Syfe but Syfe is authorised to act on any and all such Instructions which Syfe in good faith has reason to believe is from you as soon as such Instructions have been received by Syfe without requiring written confirmation thereof. Syfe shall not be liable for any loss, damage, cost, charge and expense incurred by you as a result of Syfe so acting.