



TERMS AND CONDITIONS OF BUSINESS

CAPITAL GUARD AU PTY LTD
ACN 168 216 742, ABN 48 168 216 742, ASFL 498434



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Issued by Capital Guard AU Pty Ltd

ACN 168 216 742

ABN 48 168 216 742

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INTRODUCTION

CAPITAL GUARD AU PTY LTD is a company registered and authorised under the Australian Securities & Investments Commission (ACN 168 216 742), ASFL number 498434, with a registered office at Level 36, 1 Macquarie Place, Sydney NSW 2000 AUSTRALIA.

This document presents our terms of business, referred to as the “Terms” which apply to CAPITAL GUARD AU PTY LTD, in which the following terms “we”, “us”, “the company” or “CAPITAL GUARD” are used to refer to CAPITAL GUARD AU PTY LTD.

The terms which apply to you will depend on the Financial Products or financial services provided to you by Capital Guard. All the Financial Products or financial services are subject to the general terms in this document and to the Schedules which apply to particular financial services you may receive or particular Financial Products you may transact from time to time.

1.2 In relation to your Account, a reference to “Terms” is a reference to the terms in this document (including the Schedules) which are applicable to you, as amended from time to time.

1.3 In order to establish your Account, you will need to complete and return to Capital Guard your completed Application Form (which will be provided to you online, by email, or in paper format). Capital Guard may, in its absolute discretion, accept or decline to provide any one or more Financial Products or financial services that you have selected in your Application Form.

1.4 These Terms will apply to you in respect of your Account from the earlier of (a) the time Capital Guard accepts your application in the Application Form in respect of a particular Financial Product or financial service; (b) the time Capital Guard otherwise agrees to provide the Financial Product or financial service to you; or (c) the time you first place an Order in respect of a Financial Product with Capital Guard or otherwise instruct Capital Guard to provide the financial service to you.

1.5 You acknowledge and agree that you have read and understood all documentation provided to you by us, including these Terms and any product disclosure statement (PDS) in relation to any Financial Products which you request Capital Guard to make available to you in relation to your Account. You authorize Capital Guard to open an Account for you.

1.6 You acknowledge that you have received, read, and understood our Financial Services Guide (FSG). Our FSG may change from time to time. A copy of the current FSG can be obtained on our website or on request.

1.7 You acknowledge that all dealings in Financial Products and the performance by us of our obligations under these Terms are subject to the Applicable Laws.



1.8 You acknowledge that we will not provide legal, tax, financial, or accounting advice to you as part of the services that we provide to you in accordance with these Terms. By these Terms, we do not act in a fiduciary capacity, and Capital Guard does not owe any fiduciary obligations to you in respect of its services provided to you in connection with these Terms except as expressly stated in these Terms.

1.9 These Terms do not constitute personal financial advice, nor a recommendation or opinion that a Financial Product or service is appropriate for you.

OUR SERVICES:

Subject to these Terms and Conditions and our acceptance of your Account Application Form, we will maintain one account in your name and provide investing services for equities and fixed-income securities. Unless explicitly stated otherwise in writing, all Contracts between us are governed by these Terms and Conditions, as they may be amended from time to time. These Terms outline the basis upon which we will deliver the Services specified in Clause 2 of this Agreement.

These Terms constitute a legally binding contract between you and us, so it is important that you read them carefully. If you do not understand any part of these Terms, you should contact us promptly or seek independent advice. These Terms may be executed electronically with your electronic signature. By choosing to sign electronically, you warrant and represent that you have the authority and capacity to do so and that you intend to be bound by the Terms you sign electronically.

AMENDMENTS:

These Terms supersede all previous terms and conditions and any amendments, taking effect from either the specified date or the date you begin conducting business with us.

1. TERMS AND DEFINITIONS

Acquired Assets: Refers to fixed-income investments, fixed-income products, or securities acquired by the Client or by CAPITAL GUARD in its role of providing financial services to the Client, including those previously acquired by the Client.

Account means an account held in your name or for your benefit with Capital Guard, including all Transactions recorded in them, for the purposes of these Terms.

ADI: Means an Authorised Deposit-taking Institution, as defined in the policies of the relevant Regulator or the SIS Act.

AFSL: Stands for Australian Financial Services Licence.

Agent: Includes any agent of Capital Guard from time to time (including a Sub-custodian), as well as any nominee of Capital Guard and its agents.

Agreement: Refers to the agreement between the Client and Capital Guard, incorporating these Terms and Conditions.



Applicable Law: Encompasses all applicable provisions of laws and regulations of Australia, including relevant rules, policies, directions, and codes of Government Agencies, exchanges, trade, industry and clearing associations, and self-regulatory organizations in Australia. This includes, without limitation, the Corporations Act, the SIS Act, the SIS Regulations, the Regulator's Policy (as applicable), and the National Privacy Principles, along with any relief granted from such laws or regulations.

ASIC: Refers to the Australian Securities and Investments Commission or any other government authority that performs the regulatory role undertaken by ASIC concerning financial services.

ASIC Policy: Any published ASIC document or regulatory guide that outlines the minimum requirements or expectations set by ASIC that apply to custodial arrangements like those contained in this Agreement.

AUD, Australian Dollars, and **\$A** mean the lawful currency of the Commonwealth of Australia.

Authorised Person means the person (if any) described as your authorised agent in the Application Form or another person notified by you to us.

Authenticated Communication: Refers to any form of communication as outlined in clause 5.9 of the Agreement.

Authorised Person: A person designated as the primary contact to Capital Guard or any other individual designated in writing by the Client.

Bank Account: Refers to: a) An account established and maintained by the Client with an ADI (Authorised Deposit-taking Institution) in the Client's name for receiving any Distribution. b) If such an account does not exist, the account could refer to either: i) Trust Account, or ii) Retail Account (Cash Trust Account).

Business Continuity Plan: The continuity plan that Capital Guard maintains to ensure operations can continue during disruptions.

Business Day: Any day that is not a Saturday, Sunday, or public holiday in Sydney, Australia.

Business Hours: The hours between 9:00 am and 5:00 pm Australian Eastern Standard Time (AEST) on a Business Day.

Claim: Refers to any claim, cost, damages, debt, expense, tax, liability, loss, allegation, suit, action, demand, cause of action, or proceeding of any kind, regardless of:

- a) How or when it arises,
- b) Whether it is actual or contingent,
- c) Whether it is fixed or unascertained,
- d) Whether or not it involves legal or other costs, damages, expenses, fees, or losses, whether or not it concerns a breach of trust or fiduciary duty, or
- e) Whether it arises at law or by any other means.

Client: Refers to the individual or entity identified in the Capital Guard Client Application Form.

Client's Assets: Includes all Acquired Assets in which the Client has a beneficial interest. This includes money held by Capital Guard or its Sub-custodians (e.g., in Trust Accounts or Retail Cash Trust



Accounts) and: a) Any assets identified in writing by Capital Guard or its Agents as belonging to the Client under this Agreement, and

b) Any assets transferred or delivered to Capital Guard by the Client or their agents after the Agreement's effective date, provided Capital Guard accepts these assets for holding. Client's Assets also encompass: i) All investments, certificates, and other instruments representing such moneys or Acquired Assets, ii) Any earnings or interest accrued, and

iii) All securities or other instruments derived from, converted, or subdivided from these assets and held in accordance with this Agreement.

Compliance Officer: The person appointed by Capital Guard responsible for monitoring and ensuring adherence to the Regulator's Policy and this Agreement.

Confidential Information: Refers to this Agreement and the existence of the Agreement, as well as any information related to the business, systems, operations, properties, assets, or affairs of the Client or its related bodies corporate. This information is disclosed by the Client (or its representatives) to CAPITAL GUARD (or its representatives) or learned by Capital Guard in connection with the Agreement, whether communicated orally, electronically, or in writing. Exceptions to Confidential Information include:

a) Information that was already public at the time of disclosure to Capital Guard,

b) Information that entered the public domain after its disclosure, provided it was not due to a breach of confidence,

c) Information lawfully obtained by Capital Guard from another source, not in violation of an obligation of confidence, and

d) Information independently known by Capital Guard prior to disclosure.

Consideration: The promises made by the parties in this Agreement and any amounts paid or payable by the Client to Capital Guard pursuant to this Agreement.

Corporations Act: Refers to the **Corporations Act 2001 (Cth)**, which governs corporate practices in Australia.

Derivatives Contract: Refers to any contract involving interest rates, currencies, stocks, commodities, futures, options, forward sale or purchase agreements, index contracts, or other types of derivatives, whether settled by delivery or by payment of differences, as defined under Section 761D of the Corporations Act.

Distribution: Represents any interest, dividend, right, bonus, redemption, or similar entitlement (whether in cash, securities, or otherwise) that is distributed, issued, paid, or provided to Capital Guard, reflecting the beneficial interests of the Client.

Effective Date: Refers to the date on which the Client's Assets are first provided to Capital Guard for the purposes outlined in this Agreement.

Electronic Transmission Service: Denotes any electronic communication platform or service that is acceptable to Capital Guard for transmitting communications and information in connection with this Agreement.

Event of Default: Refers to situations including:



- (a) You breach these Terms, whether by act or omission.
- (b) A Transaction is entered into, or an Order is executed, in any circumstances where Capital Guard reasonably believes that conduct is, or could be considered to be, in breach of the Corporations Act, the Rules, or any other Applicable Laws.
- (c) You fail to pay amounts due to Capital Guard.
- (d) You fail to perform any settlement obligations in respect of a Transaction.
- (e) You fail to comply with any limit or restriction imposed on you by Capital Guard in connection with your Account (e.g., restrictions on Transaction type, volume, or value).
- (f) Any security provided by you becomes enforceable, and the holder of that security takes action to enforce it.
- (g) Any representation or warranty you give under these Terms is or becomes incorrect or misleading in a material way.
- (h) Capital Guard determines that you are unable or might not be able to meet your obligations in respect of one or more Transactions.
- (i) You become insolvent or bankrupt.
- (j) You enter into a composition or scheme of arrangement for the benefit of creditors.
- (k) If you are a corporate entity:
 - You go into liquidation (except for the purpose of reconstruction) or a liquidator, receiver, or administrator is appointed in respect of your assets.
 - You fail to notify Capital Guard of a change in director(s) within seven (7) days of the change taking effect.
- (l) If you are acting on behalf of another person, the authority granted to you is varied or revoked, impacting your ability to perform obligations under these Terms.
- (m) If you are a trustee, the trust is terminated, vests, or capital is distributed in a way that results in insufficient trust assets to meet liabilities under these Terms.
- (n) If you are a natural person, you die or become of unsound mind.
- (o) You cease, or threaten to cease, carrying on business.
- (p) You fail to provide instructions to Capital Guard in a timely manner regarding your Transactions.
- (q) Any other event referred to in a Schedule applicable to your Account occurs, or Capital Guard and you have agreed that such an event constitutes a Default.

Fees: Refers to charges imposed by Capital Guard for its services.

Financial Market means a financial market within the meaning of the Corporations Act (which includes, for example, any market on which prices of Financial Products are quoted), whether located



in Australia or elsewhere.

Financial Product has the meaning given in Part 7.1, Division 3 of the Corporations Act (including, for the avoidance of doubt, any ASIC Legislative Instruments).

Foreign Exchange means currency, including Australian Dollars and foreign currency.

Futures has the same meaning as given in rules governing the operation of any Exchange relevant to an OTC Transaction.

Force Majeure Event: Describes events beyond Capital Guard's control, such as natural disasters, strikes, war, government interventions, or other extraordinary circumstances.

Government Agency: Any governmental or quasi-governmental body, commission, or authority.

GST Law: Defined as per the "A New Tax System (Goods and Services Tax) Act 1999" (Cth).

Know Your Customer Procedures: Refers to the customer identification protocols specified by Capital Guard, as notified to the Client.

Loss: Refers to any losses, damages, costs, expenses, and liabilities, regardless of how they arise. This includes prospective or contingent losses and unascertainable amounts, covering loss of profit, expected profit, and any decrease in value.

National Privacy Principles: These are the privacy guidelines set out in the *Privacy Act 1988* (Cth).

Notice: Refers to any form of communication, such as a notice, approval, consent, or other messages, including Proper Instructions, related to this Agreement.

Portfolio: Represents a subset of the Client's Assets that share common characteristics or terms.

Proper Instructions: These are directions, requests, or approvals given in accordance with Applicable Law and clause 5, following the form specified by Capital Guard, as notified in writing to the Client.

Records: Refers to up-to-date, complete, and accurate documentation related to the Services provided by Capital Guard or its Sub-custodians under this Agreement. This includes records of daily trade transactions by the Client and identification of the Client's Assets designated by the Sub-account.

Regulator: Refers to ASIC (Australian Securities and Investments Commission) or any of its successors.

Regulator's Policy: Any published ASIC policy, in writing, that directly impacts Capital Guard's obligations under this Agreement.

Related Entity: Defined as a related body corporate according to the *Corporations Act*.

Reports: Refers to custodial or other reports that Capital Guard must provide as stipulated in clause 3.14.

Retail Client: A Client who is a natural person, a family trust, or the trustee of a self-managed superannuation fund.

Securities: refers to any type of securities, bonds, notes, financial products, negotiable debt



instruments, instruments of indebtedness, or any other instruments that represent interests, rights, or obligations related to receiving, purchasing, delivering, or selling those interests. The term *Security* has a corresponding meaning.

Securities Account: is an account maintained by Capital Guard within a Securities System.

Securities System: is a depository or book-entry system for handling securities centrally, facilitating the settlement of transactions.

Services: are the services provided by Capital Guard concerning the Client's Assets under this Agreement, as well as any additional services agreed upon in writing.

SIS Act: refers to the *Superannuation Industry (Supervision) Act 1993 (Cth)* .

SIS Regulation: refers to the *Superannuation Industry (Supervision) Regulations 1994 (Cth)* .

Standing Instruction: means a Proper Instruction designated as a standing order, applicable to similar transactions until revoked by further Proper Instructions.

Sub-account: refers to the case where a Sub-custodian holds a Client's Assets under its own name but maintains records that distinguish the beneficial interests of each Client, ensuring the assets are attributed to individual Clients or multiple Clients where applicable.

Sub-custodian: refers to any company holding an Australian Financial Services Licence (AFSL) that is authorised to provide custodial or depository services to the public. Such companies must comply with the Regulator's Policy and are appointed by Capital Guard, in accordance with clause 8, to hold and safeguard the Client's Assets.

Successor: is any person or entity appointed by the Client to take over the provision of some or all of the Services related to the Client's Assets in place of Capital Guard. The Successor could also be the Client themselves.

Tax: refers to any form of taxes, levies, imposts, charges, or duties imposed by any authority. This includes stamp and transaction duties, as well as any associated interest, penalties, fines, and expenses.

Transfer Period: is the period of no more than 60 days (unless otherwise agreed in writing) after the termination of this Agreement, during which the Client's Assets must be transferred either to the Client or to a successor custodian, as specified in clause 14.

Transaction means any contract between you and Capital Guard as principal:

(a) To pay, or to agree to pay, an amount calculated in respect of an Underlying Instrument in one currency against the settlement in the same or another currency (or other agreed Underlying Instrument); and

(b) In respect of which (other than in respect of Closing Out an Open Position as permitted under these Terms) you have, or you are taken to have, agreed (whether orally, electronically, or in writing) to:

(i) The specification of the Underlying Instruments involved;

(ii) The amount of Underlying Instruments involved and, if applicable, the amount of the specified currency involved;

(iii) The Price;



- (iv) The Transaction Fee and Finance Charges; and
- (v) Any other features agreed by Capital Guard.

Transaction Fee means the fee or commission from time to time specified by Capital Guard to be the amount payable by you to Capital Guard in respect of each Transaction.

Withdrawable Funds means the amount of cash which would be paid to you from the Account if requested. There are Withdrawable Funds only if your Account balance is a positive amount

You means the Client, being the person or persons in whose name we open an Account (including any Authorised Person), following our acceptance of an application by that person or those persons.

1.2 INTERPRETATION

In this Agreement, unless the context requires otherwise:

- a) Headings and underlined words are included for convenience and do not influence the interpretation of the Agreement.
- b) Singular words include their plural forms and vice versa.
- c) An expression referring to a natural person also includes entities such as companies, partnerships, joint ventures, associations, corporations, or Government Agencies.
- d) A reference to any object includes a part of that object.
- e) A reference to a part, clause, party, annexure, attachment, or schedule refers to the respective parts and sections within this Agreement.
- f) A reference to a document includes any amendments, supplements, replacements, or novations of that document. This can also include certificates, notices, instruments, or agreements in writing.
- g) A reference to a party in a document includes the party's successors and permitted assigns. h) No rule of construction will place a party at a disadvantage for being responsible for drafting this Agreement or any part of it.
- i) A reference to this Agreement also includes any schedules or annexures attached to it.
- j) A reference to dollars or \$ refers to the legal currency of Australia.
- k) If any required action falls on a non-Business Day, it must be performed on the next Business Day.
- l) A reference to an Act includes any related regulations, delegated legislation, or amendments, and extends to Acts replacing it.
- m) A reference to this document or Agreement includes both the Client Custody Agreement Terms and Conditions and the Capital Guard Application Form, which together form the agreement between the parties.
- n) If there is any inconsistency between the provisions of the Capital Guard Application Form and these Client Custody Agreement Terms and Conditions, the latter will prevail to the extent of the inconsistency.



2. AGREEMENT AND APPOINTMENT

2.1. AGREEMENT

The Client and Capital Guard hereby enter into this Agreement in exchange for the Consideration provided herein.

2.2 EFFECTIVENESS

This Agreement will commence on the Effective Date and will remain in full force and effect until it is terminated in accordance with clause 13.

2.3 CUSTODIAN

From the Effective Date, the Client appoints CAPITAL GUARD to:

- a) Provide the Services; and
- b) Delegate and appoint an Agent to act as a third-party custodian and deliver the Services as outlined in clause 8. Any Sub-custodian appointed by Capital Guard must meet the financial requirements specified in Regulatory Guide 166, and Capital Guard will secure an annual written assurance from the Agent confirming compliance with these requirements.

Furthermore, the parties acknowledge that if Capital Guard is designated as a Custodian, it will function solely as an "Incidental Provider" as defined in Regulatory Guide 166.173 in relation to the Services.

2.4 CLIENT'S ASSETS

Capital Guard retains the right, at its sole discretion, to refuse to hold any Client Asset proposed by the Client under this Agreement.

2.5 BENEFICIAL OWNERSHIP

Capital Guard acknowledges and agrees that the beneficial interest in the Client's Assets, as held under this Agreement, will always remain with the Client. This Agreement does not alter the beneficial ownership of the Client's Assets in any way.

2.6. APPOINTMENT OF AUTHORISED PERSONS

1. Capital Guard may accept your authorisation of another person (Authorised Person) to give instructions and place Orders on your behalf. You must notify Capital Guard in your Application Form or otherwise in writing in a way permitted by Capital Guard of any such authorisation, setting out the full name, telephone number, email address, and signature of that person and any other information



required by Capital Guard to identify the Authorised Person.

2. Any change or revocation of such authority is only effective upon receipt by Capital Guard of a signed written notice of change or revocation from you. If another person is later appointed an Authorised Person, the notice must include the full name, telephone number, email address, and specimen signature of that person and be verified by an Authorised Person and any other information required by Capital Guard to identify the Authorised Person and, if you are a body corporate, by a director.
3. You may appoint an attorney (under a power of attorney in the relevant jurisdiction) to give instructions and place orders on your behalf or otherwise to do anything which you are entitled to do in connection with or under these Terms. You must notify Capital Guard in writing of any such appointment setting out the attorney's details. You must provide Capital Guard with a written power of attorney; Capital Guard may accept or reject this power of attorney.
4. Capital Guard may allow a Client which is a corporation or other legal entity to authorise a person (who is by that authorisation an Authorised Person) or an attorney to do anything which the Client is entitled to do under these Terms, including on conditions determined by Capital Guard.
5. Capital Guard may allow any other Client to authorise its Authorised Person or attorney to do anything which the Client is entitled to do under these Terms, including on conditions determined by Capital Guard.
6. For the purposes of these Terms, Orders placed by, and other instructions or directions given by, an Authorised Person (or which appear to us on the face of the Orders or other instructions or directions to be placed or given by an Authorised Person) are taken to be your Orders, instructions, or directions.
7. You are and remain solely liable and responsible for all acts and omissions of your Authorised Person notwithstanding the act or omission of the Authorised Person was:
 - (a) Outside their actual or ostensible authority; or
 - (b) In error, fraudulent, negligent, in breach of their fiduciary duties, or criminal.
8. You agree not to make, and you release us from any liability to you under your right to make, any Claim against us for any Loss incurred or suffered by you which arise directly or indirectly due to us relying on instructions from or other communications from or acts or omissions by your Authorised Person (including your attorney).

2.7. Conflicts of Interest

When we enter or arrange a transaction for you we, an associated company, or some other person connected with us may have an interest, relationship, or arrangement that is material in relation to the transactions, investments or service concerned and you agree that we shall not be obliged under these Terms to disclose this to you or to account to you for any profit. However, our employees are required to comply with a policy of independence and disregard any such interest when entering into a transaction for you.

When we enter or arrange a transaction for you, we will be subject to the provisions of our Conflicts Policy and any internal arrangements which have been put in place to monitor our trade dealings. You agree that we are not and will not be a fiduciary of you or your associates, whether arising out of the Services or otherwise.

3. SERVICES

3.1. RESPONSABILITIES

a) Capital Guard agrees with the Client that it will take all reasonable steps to ensure its Agent performs the following when providing Services, or Capital Guard will do so directly if applicable:

(i) Custody of Client's Assets: Take custody of the Client's Assets and any documents evidencing title to them, holding them for the Client's account or in a Sub-account.

(ii) Bare Trust Arrangement: Hold the Client's Assets as a bare trustee, either in Capital Guard's name or a Sub-custodian's name, or through a Securities System, ensuring that the Client retains beneficial interest.

(iii) Separation of Assets: Maintain the Client's Assets as separate and distinct from other assets held by the Sub-custodian in its own capacity or on behalf of other Clients, unless impractical or cost-effective. In such cases, the Sub-custodian may pool the Client's Assets in a Custody Account with assets from other persons while keeping records to identify the Client's Assets.

(iv) Distribution of Payments: Credit all Distributions, income, and other payments related to the Client's Assets to the relevant Account.

(v) Proper Instructions: Act on Proper Instructions in accordance with this Agreement.

(vi) Reporting: Provide Reports to the Client as outlined in clause 3.14.

(vii) Record Keeping: Maintain Records in accordance with clause 11.1.

(viii) Compliance with Applicable Law: Prepare and lodge any returns and documents required by Applicable Law for custodians of the Client's Assets.

(ix) Additional Services: Provide other custodial services as may be mutually agreed in writing, subject to clause 3.1(b).

(x) Compliance: Ensure compliance with Applicable Law at all times.

(xi) Duty of Care: Act with reasonable care and in the Client's best interests when fulfilling its obligations under this Agreement.

b) The parties may agree on additional services to be provided by Capital Guard from time to time. Capital Guard will not be obligated to provide any additional services unless this Agreement is amended to Capital Guard's reasonable satisfaction.

3.2. AUTHORITY

a) Capital Guard may, but is not obligated or required to, take any actions it deems necessary or desirable to implement this Agreement or to fulfill any obligations imposed by Applicable Law.

b) Without limiting clause 3.2(a), Capital Guard is authorized to:



- (i) Open and Maintain Bank Accounts: Open and maintain Bank Accounts as necessary.
 - (ii) Appoint Agents or Sub-custodians: Appoint any Agents or Sub-custodians or utilize any Securities System as needed.
 - (iii) Foreign Exchange Transactions: Enter into various foreign exchange transactions on behalf of the Client that Capital Guard considers necessary for the settlement of transactions made by the Client.
 - (iv) Deductions from Client's Assets: Make deductions from the Client's Assets from time to time to satisfy any obligations the Client has entered into under this Agreement.
 - (v) Seek Professional Advice: Seek and act upon legal, professional, and other advice as required.
- c) If any fractional interests arise from a Distribution related to Securities held by a Sub-custodian on behalf of the Client, the Sub-custodian will, subject to Applicable Law, retain that fractional entitlement after rounding down to the nearest whole Distribution owed to the Client.

3.3. QUALITY STANDARDS

- a) To the fullest extent allowed by law, all obligations that may otherwise be implied or imposed on Capital Guard are excluded. Capital Guard does not owe any duties to the Client regarding the Client's Assets or otherwise, except for the following:
- Custody of Client's Assets: To provide, or have a Sub-custodian provide, custody for the Client's Assets.
- (i) Honesty and Good Faith: To act honestly and in good faith in the performance of its duties.
 - (ii) Care, Diligence, and Skill: To exercise the degree of care, diligence, and skill that a reasonable person would apply in relevant markets, assuming they were experienced in performing the duties outlined in clause 3.1.
- b) Except for the duties described in clause 3.3
- a) concerning the Client, Capital Guard does not owe any duties nor has any liability to any other party with an interest in the Client's Assets.

3.4. NOT LIABLE

- a) Without limiting clause 3.3, Capital Guard is not responsible for:
- (i) **Title and Validity:** The title, validity, genuineness, good deliverable form, or freedom from encumbrance of any Asset.
 - (ii) **Client Advice:** Providing advice to the Client regarding any acquisition, disposal, or other dealings with any Asset.
 - (iii) **Enquiries and Investigations:** Making any inquiries or investigations to ensure that each Client Asset is an authorized or permitted investment for the Client.



(iv) **Consideration for Transactions:** Ensuring that adequate consideration is received for the acquisition or disposal of any Client Asset, except in accordance with Proper Instructions.

(v) **Accuracy of Information:** The accuracy or completeness of any information received from any third party or the Client.

(vi) **Insurance:** Except as outlined in clause 3.15, holding or maintaining insurance regarding the Client's Assets.

b) The Client acknowledges that Capital Guard is not responsible for monitoring or supervising the Client's Assets or their issuer in any capacity. The duties and obligations of Capital Guard under this Agreement do not include a duty to disclose any information that Capital Guard may have acquired or otherwise become aware of (unless expressly required to do so under another provision of this Agreement) or to monitor the compliance of the Client, its agents, or any other person with any restrictions or guidance imposed on the Client or any other person under any constituent document, law, or obligation binding on the Client regarding the Client's Assets.

3.5. CONTRACTS

Capital Guard shall not be required to enter into contracts unless and until the contract includes a limitation of liability clause in a form acceptable to Capital Guard.

3.6. CONFLICT AND RESOLUTION

a) Without limiting clause 3.6(b), the Client consents to and agrees that Capital Guard:

(i) may acquire, dispose of, or otherwise deal with any Securities or other obligations of the issuer of any Security, whether for its own account or otherwise;

(ii) when appointing an Agent under clause 8, may appoint a Related Entity as the Agent of Capital Guard;

(iii) is not obliged to account to the Client for any income, profit, or other benefit arising out of anything described in this clause 3.6; and

(iv) may act for other persons who are also designated as 'clients' who have entered into an agreement either in this form or substantially in the form of this Agreement.

b) Nothing in this Agreement shall prevent or restrict Capital Guard or its Agents from:

(i) dealing as principal or agent in any acquisition or disposal of assets for any purpose to or from:
A) the Client; or

B) Capital Guard or its Agents for the account of the Client;

(ii) acting as custodian and/or trustee in any other capacity for any other person; or

(iii) buying, holding, and dealing in any assets for its own account or for the account of the Client notwithstanding that the same or similar assets may be held or dealt in by or for the account of the Client.

Capital Guard and its Agents shall not be affected by notice of or be under any duty to disclose any information which has come into their possession or knowledge as a result of the arrangements described in this clause 3.6(b).

3.7. BANK ACCOUNTS



Cash held by Capital Guard in any Bank Account is held in its capacity as an AFSL holder. Capital Guard may:

- a) pool Retail Client money held in the Trust Account and deposit it into the Retail Account;
- b) transfer a Retail Client's money from the Retail Account to the Trust Account for the payment and acquisition of Securities for that Retail Client;
- c) at the written request of a Retail Client, accept deposits into the Retail Account;
- d) at the written authorization of a Retail Client, transfer the Retail Client's money to a Bank Account;
- e) pay interest to Retail Clients on their balance in the Retail Account under the terms and at the interest rate published on the Capital Guard website.

Other than as provided for elsewhere in the Agreement, Capital Guard is not entitled to and will not withdraw a Client's funds from the Account except at the prior written request and authorization of a Client.

3.8. FUNDS

The client:

- (i) will provide prior written authority to Capital Guard for Capital Guard to direct debit the Client's Account for payment of all transactions in connection with the Client's Assets or the acquisition of Client's Assets;
- (ii) will take all reasonable and practical steps to ensure that the Bank Account has sufficient cleared funds to facilitate the timely completion of all transactions in connection with the Client's Assets or the acquisition of Client's Assets; and
- (iii) agrees that Capital Guard is not obliged to complete any transaction in connection with the Client's Assets or the acquisition of Client's Assets unless the Bank Account contains sufficient cleared funds for that purpose.

3.9. INTERNAL CONTROLS

Capital Guard will, either itself or by taking reasonable steps to ensure that its Agent will:

- a) maintain an organisational structure that, unless permitted by Applicable Law or any relief from the Applicable Law, ensures the segregation of the Client's assets from those of Capital Guard's other clients at all times;
- b) maintain proper internal control structures and compliance systems designed to:
 - (i) prevent any material and/or systemic breaches of this Agreement by Capital Guard; and
 - (ii) ensure that any material and/or systemic breaches are promptly detected and reported to the Client;
- c) ensure a clear separation of powers, functions, and responsibilities between the officers, employees, and staff of Capital Guard concerning:
 - (i) the Services; and
 - (ii) the internal auditing by Capital Guard of compliance with its internal control structures and compliance systems;



- d) ensure that officers, employees, and staff of Capital Guard possess the experience, knowledge, and skills necessary to effectively carry out the Services under this Agreement; and
- e) document its internal control structures and compliance systems comprehensively.

3.10. COMPLIANCE

- a) Capital Guard will either directly or by taking reasonable steps to ensure that its Agents will ensure that its internal control structures and compliance systems are accessible for audit by Capital Guard's auditor each financial year. Furthermore, Capital Guard shall ensure that, at least annually, documentation reflecting the internal control structures and compliance systems is reviewed by the Compliance Officer. This review aims to assess the accuracy and ongoing relevance of those structures and systems. The Compliance Officer is required to report to the board of directors of Capital Guard within two months of the end of each financial year on any significant irregularities detected and on any system improvements deemed desirable. The report by the Compliance Officer may be delegated to Capital Guard's auditor and must also include details of any exceptions to compliance with the Regulator's Policy.
- b) Capital Guard will, or will take reasonable steps to ensure that its Agents will, at the written request of the Client or a Regulator and at the Client's expense, arrange for an independent auditor retained by Capital Guard to provide a report to the Client on the effectiveness of Capital Guard's internal controls, policies, and Capital Guard's compliance with them concerning Capital Guard's obligations to the Client under this Agreement.
- c) If Capital Guard becomes aware or reasonably considers that it has not complied or may not comply with any representation or warranty in this Agreement, or that it has or may materially breach a provision of this Agreement, Capital Guard will, either directly or by taking reasonable steps to ensure that its Agent will:
 - (i) As soon as practicable, provide a written report to the Client notifying them of the non-compliance or material breach, as applicable; and
 - (ii) Use its reasonable endeavors to comply with the Proper Instructions of the Client concerning the non-compliance, material breach, or likely material breach.

3.11. FORCE MAJEURE

- a) If a Force Majeure Event occurs that, in Capital Guard's opinion, significantly interrupts the Services, Capital Guard will, or will take reasonable steps to ensure that its Agents will:
 - (i) Notify the Client of the Force Majeure Event and the extent of its effect on the provision of the Services;
 - (ii) Activate its Business Continuity Plan; and
 - (iii) Provide the Services with minimal interruption and reduction, as soon as practicable after the occurrence of the Force Majeure Event.



b) If the Services are not provided in full and without interruption within 20 Business Days after the Client receives the notice under clause 3.13(a)(i) (or such longer period as may be mutually agreed upon by Capital Guard and the Client), the Client may immediately terminate this Agreement by giving written notice to Capital Guard.

3.12. REPORTING

a) To enable the Client to monitor the performance of Capital Guard and any Sub-custodian, Capital Guard will provide the Client with reports.

b) The Reports shall include:

(i) A written transaction report whenever Client money is invested or expended by CAPITAL GUARD for the acquisition of a Security pursuant to Proper Instructions, or where a Security is sold or disposed of by Capital Guard for the Client pursuant to Proper Instructions;

(ii) A written monthly holding statement showing the Client's interest at that time in the Client's Assets held by Capital Guard;

(iii) A written yearly summary report made up to 30 June in each year, showing the Client's interest at that time in the Client's Assets held by Capital Guard;

(iv) Other written reports that the Client may reasonably request from CAPITAL GUARD relative to the Client's Assets.

c) The Client acknowledges and agrees with Capital Guard that:

(i) Capital Guard does not provide advice on taxation matters;

(ii) The records and reports described above may not be sufficient or accurate for the Client to discharge its obligations under any relevant law, regulation, or other obligation;

(iii) The Client should seek and obtain confirmation of the adequacy of such records and reports from its internal or external tax advisers;

(iv) Capital Guard will not be liable to the Client or any other person for any loss or damage resulting from the insufficiency or inaccuracy of such reports concerning the Client's compliance with any relevant law, regulation, or other obligations.

3.13. INSURANCE

Capital Guard will itself, or will take reasonable steps to ensure that its Agent will maintain adequate insurance coverage at the greater of:

a) The level, if any, required by the Regulator's Policy (as applicable); and

b) Levels consistent with usual market practice.

3.14. ANTI-MONEY LAUNDERING AND SANCTIONS

a) When we provide the Services to you, we must comply with our obligations under legislation relating to money laundering and terrorism financing including the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth) (“AML/CTF Act”). Our obligations under the AML/CTF Act include ensuring that we have properly identified all of our customers before providing certain services to them and engaging in ongoing due diligence of our customer’s activities in respect of the Services that we provide.

b) The Client agrees that Capital Guard may delay, block, or refuse to make any payment, receive any money, process any transaction, or deal with any Client’s Assets without incurring any liability if Capital Guard suspects that:

(i) may breach any laws or regulations that apply in Australia or in any other country, or cause us to breach or participate in any breach of any law or regulation relating to money laundering, terrorism financing or economic trade or sanctions risk including without limitation the AML/CTF Act; or

(ii) involves any person (natural, corporate or governmental) that is itself subject to sanctions or is connected, directly or indirectly, to any person that is subject to sanctions imposed by Australia or any other country including under the Charter of the Page 5 of 10 United Nations Act 1945 (Cth) or the Autonomous Sanctions Act 2011 (Cth) or equivalent legislation; or The transaction involves any person (natural, corporate, or governmental) that is itself sanctioned or is connected, directly or indirectly, to any person that is sanctioned under economic and trade sanctions imposed by the United States, the European Union, or any country; or

(iii) That transaction may directly or indirectly involve the proceeds of, or be applied for the purposes of, unlawful conduct.

c) If you are acting through an agent, we may require that certain information be provided in respect of your agent so that we can comply with our obligations under the AML/CTF Act including verifying the identity of the agent before providing Services to you.

d) You agree that we may take any action that we believe necessary to comply with any law relating to money laundering, terrorism financing or economic or trade sanctions including disclosing any information that we hold about you to the Australian Transaction Reports and Analysis Centre (‘AUSTRAC’), any Australian or foreign law enforcement, regulatory agency or court or to our service providers whether in Australia or outside Australia.

e) The Client must provide all information to Capital Guard which Capital Guard reasonably requires in order to manage anti-money laundering, counter-terrorism financing, or economic and trade.

3.14 ORDERS

1 You may from time to time place Orders with us to enter into Transactions. Subject to these Terms, we will execute your Orders with you as principal in accordance with your instructions.

2 We will not be responsible for delays or errors in the transmission or execution of your instructions (except to the extent that responsibility cannot be excluded by law), including where an Exceptional Event occurs.



3 We may refuse to accept an Order and we may place a limit on any Order or place other conditions on the receipt of instructions or Orders, in our absolute discretion and for any reason. We may at any time use, add, and change filters within a trading system that prevent delivery of Orders or execution of Orders. We will notify you of any refusal or limitation as soon as reasonably practicable, unless we are prevented by law or a direction from a regulatory authority from notifying you.

4 We may cancel or amend an Order if any one or more of the following (in our sole discretion) has occurred, is reasonably likely to have occurred, or will occur:

- (a) If required by Applicable Laws to do so;
- (b) If there is an error, whether made by us in pricing or otherwise;
- (c) If the Underlying Instrument is subject to a major disruption;
- (d) If you have engaged in conduct that is a material breach of these Terms;
- (e) If you are using our Financial Products in the course of criminal activities or in breach of AML/CTF Laws;
- (f) If it is appropriate, having regard to the desirability of maintaining a fair and orderly market, our obligations as the holder of an Australian financial services licence or as a participant or user of the relevant Financial Market, and our other legal and regulatory obligations; or
- (g) If one or more Financial Products that are the subject of the Transaction have been subject to a suspension or trading halt on a Financial Market.

You acknowledge that Exchanges have a range of powers, including the power to cancel or amend a Transaction. This power can be exercised without your permission or our agreement and may result in us canceling or amending an Order due to an Exchange exercising its powers.

5 We will make reasonable efforts to effect any instructions to cancel or amend Orders as quickly as possible. However, if an Order is filled prior to a cancellation or amendment instruction being effected, you are obliged to accept the Transaction on the original terms prior to your amendment or cancellation instruction, unless the Transaction is itself canceled or amended.

6 We may execute Orders for you even in circumstances where we or our associates:

- (a) Hold a principal position or deal in the relevant Financial Products;
- (b) Provide similar services to other persons in relation to the relevant Financial Products;
- (c) Have material price-sensitive information relating to the relevant Financial Products, provided that the individuals processing your Order are prevented from knowing or taking into account such information (including, but not limited to, by reason of procedures known as “Chinese walls”); or
- (d) Have a potential conflict of interest or duties, including, for example, a conflict of interest of which you are not aware and which we are unable to disclose to you.

7 Notwithstanding any rule of law or equity to the contrary, Capital Guard is not disqualified from contracting with any person, and no contract, transaction, or arrangement in which Capital Guard is in any way interested is avoided or rendered voidable by virtue of your agreement with us. Capital Guard is not liable to account to you for any profit realized by any such contract, transaction, or arrangement in connection with these Terms or a Transaction. Capital Guard is not required to make any disclosure to you concerning any such contract, transaction, or arrangement.

8 We and our related bodies corporate may enter into Transactions with you as principal, whether in respect of Financial Products able to be traded on a Financial Market or in respect of over-the-counter Transactions. When permitted by law and the Rules, we or an associate may take the



opposite position in a Transaction with you. Your Orders may match opposite Orders of another person who is our Client, and this may entitle us to receive commission or other benefits from both Transactions. Similarly, because we deal as principal, your Orders may match opposite Orders entered by us as principal, and you authorize us and consent to us charging you the Transaction Fees in respect of the Transaction provided by these Terms.

9 You acknowledge that we do not operate any discretionary accounts and will only act on your instructions (including those given by your Authorised Person) unless otherwise expressly provided by these Terms.

10 Unless otherwise specified in these Terms, all Orders will remain open until either canceled by you or purged by the Online Service. We do not accept responsibility for reinstating lapsed Orders or for contacting you to seek new instructions.

11 If a security code or identifier changes, you are responsible for replacing all live and contingent Order codes with the new relevant security code or identifier. We will not be responsible for any live or contingent Orders with the incorrect security code or identifier.

12 You must not instruct us to submit an Order to enter into a Transaction that would breach or cause us or any other person to breach the Corporations Act, the Rules, or any other Applicable Laws, including, without limitation, any law or the Rules in relation to:

- (a) Market manipulation, false trading, market rigging, fictitious transactions, wash trading, or matching of Orders;
- (b) Insider trading;
- (c) Short selling;
- (d) Creating a disorderly market or otherwise prejudicing the integrity or efficiency of the market; or
- (e) Misleading or deceptive conduct.

13 Your instructions to Capital Guard to enter into a Transaction, your Order to Capital Guard to enter into the Transaction, and the Transaction remains valid and enforceable against you without affecting your other liability to Capital Guard, even if you (or your Authorised Person) are not authorized by your own rules (such as a corporate or trust constitution or an investment management agreement).

14 You agree not to make any Claim against Capital Guard for any Loss incurred or suffered by you which arises in connection with the exercise of any power by ASIC or by an Exchange, which directly or indirectly affects your Transaction, including by way of Capital Guard directly or indirectly hedging your Transaction, except to the extent that the Loss incurred or suffered is caused by the negligence, fraud, or breach of these Terms by Capital Guard.

15. The Client agrees Capital Guard may disclose information which has been provided by the Client where required by any laws or regulations in Australia or any other country in connection with anti-money laundering, criminal or terrorist activities, or economic and trade sanctions as they affect the provision of the Services. If the consent of an agent of the Client is required in respect of such disclosure, the Client undertakes to use all reasonable measures in order to obtain such consent as soon as reasonably practicable.

16. The Client declares and undertakes to Capital Guard that to the best of its knowledge, the



payment or receipt of monies or dealing with other Client's Assets by Capital Guard in accordance with any Proper Instructions given by the Client will not breach any laws or regulations in Australia or any other country in connection with anti-money laundering, criminal or terrorist activities, or economic and trade sanctions.

3.15. 3.15 Capital Guard's responsibilities

1 Capital Guard will deal fairly and in due sequence with all client Orders, having regard to Australian regulatory requirements, market practices, and Capital Guard's compliance policies and procedures.

2 To the extent that it is reasonably practicable to do so, Capital Guard will allocate all Transactions (including Transactions effected pursuant to Orders placed on Capital Guard's own account) in the sequence in which Capital Guard receives those Orders, subject to filters and compliance review and to any delay or technical faults connected with or arising through the use of the Online Service, an Exchange System, or any other delay that is outside the control of Capital Guard.

3. Capital Guard will:

- a) collect all interest, coupons and other income relating to the bonds in the Omnibus Account;
- b) receive all funds resulting from the sale or disposal of any bonds in the Omnibus Account;
- c) maintain transaction reports for the bonds held in the Omnibus Account;
- d) credit all interest, coupons, other income and sale proceeds of your bonds to you. For bonds which are denominated
 - in Australian Dollars we will deposit those amounts into your designated nabtrade Cash Account. For bonds which are
 - denominated in a currency other than Australian Dollars, we will deposit:
 - i. the foreign currency into an account issued by NAB, which WealthHub Securities Limited operates as a client money account to hold money on trust for our clients ("Client Money Account"); or
 - ii. equivalent proceeds into your designated nabtrade Cash Account, at the prevailing foreign exchange rate;
 - provide you with the following reports:
 - payment summary on each coupon distribution of your bond holding; and
 - an annual report including;
 - tax statement detailing coupons and distributions for the 12 months to 30 June each year; and
 - a summary of each bond currently held through the NAB Bond Service.

3.16 EXCEPTIONAL EVENTS

1 An Exceptional Event includes:

- (a) Any fire, strike, riot, civil unrest, terrorist act, war, or industrial action;
- (b) Any natural disaster such as floods, tornadoes, earthquakes, and hurricanes;
- (c) Any epidemic, pandemic, or public health emergency of national or international concern;
- (d) Any act or regulation made by a government, supranational body, or authority that we believe



stops us from maintaining an orderly market in relation to stocks or bonds traded on the exchange;

- (e) The suspension or closure of any exchange;
- (f) The nationalisation of any exchange by a government;
- (g) The imposition of limits or unusual terms by a government on any stock or bond traded on an exchange;
- (h) The failure of any instrument that we use to determine stock or bond prices;
- (i) Excessive changes to the price, supply, or demand of any stock or bond, and we may also declare an Exceptional Event where we anticipate such a change (within reason);
- (j) Technical failures in transmission, communication, or computer facilities, including power failures and electronic or equipment failures;
- (k) The failure of any supplier, custodian, sub-custodian, broker, dealer, exchange, clearing house, or regulatory organisation to perform its obligation to us;
- (l) A liquidity provider not providing, or being unable to provide, liquidity to us for stocks or bonds;
- (m) An event which significantly disrupts a financial market, including (but not limited to) the premature close of trading in the market of a product, or excessive movements in price, supply, or demand of a stock or bond.

3.16. CONSEQUENCES OF AN EXCEPTIONAL EVENT

If an Exceptional Event occurs, the availability and speed of our service, including our trading platform, website, execution of your orders, and specific functionalities related to your transactions, may be delayed, unavailable, or not carried out. Capital Guard will not be liable to you for any losses incurred as a result.

If we believe, in our reasonable opinion, that an Exceptional Event has occurred or is occurring, we may take immediate actions, including:

- (a) Limiting the availability of instructions you may give in respect of an order or trade;
- (b) Adjusting trading hours for a stock or bond;
- (c) Closing open transactions at a price that we believe is reasonably proportionate;
- (d) Cancelling some or all open orders which are affected by the Exceptional Event.

If we take any such action and you lose money as a result, Capital Guard will not be liable to you.

4 We will use commercially reasonable efforts to resume normal performance of our services after an Exceptional Event occurs.

3.17. Consequences of Default

If a Default occurs, Capital Guard may, without prior notice, take any action it considers reasonable in the circumstances, including but not limited to:

- (a) Cancel any outstanding Orders.
- (b) Settle any Transaction that has not yet been completed at the time of Default.
- (c) Cancel a Transaction and adjust your Account accordingly, including reversing any previous gains or losses.
- (d) Apply any money that you have deposited into a Trust Account, which you are entitled to, by way of set-off or withdrawal to cover any amount you owe Capital Guard.
- (e) Terminate these Terms, any Schedule, your Account, or one or more Transactions.
- (f) Enforce any security or guarantee provided in respect of your obligations to Capital Guard.
- (g) Convert any outstanding amounts owed by you to Capital Guard into Australian currency.
- (h) Calculate all amounts owing by you to Capital Guard and declare such amounts immediately due and payable.
- (i) Exercise any other rights conferred by Applicable Laws or these Terms.

For any action taken by Capital Guard under this clause, you must account for any resulting losses as



if Capital Guard had acted on your instructions.

3.17.1. Rights of the Client in Case of Default by Capital Guard

Nothing in these Terms limits your right to claim a Default by Capital Guard or to take appropriate action to recover for any Loss resulting from such a claim.

For example, you may terminate these Terms if Capital Guard materially breaches them.

However, you agree that it is reasonable not to have automatic termination provisions in case of Capital Guard's default to prevent premature termination of all client transactions, which could lead to further losses for all clients.

3.18. Custody

If applicable, we will arrange the provision of custody services to you in relation to any financial products arising from your transactions with us. Specifically we will engage a custodian to hold those financial products on trust for you.

1. You authorise us to register any registrable financial products in the name of the custodian engaged by us from time to time, their sub-custodian or either of their respective nominees, or to act as custodians, or to do all things necessary to effect registration.
2. We will require the custodian to keep a record of what financial products are held by it on trust for you, and to update that record to record dealings in those financial products.
3. Your financial products will be held separately from the assets of the custodian, the sub-custodian and their respective nominees.
4. We may claim reimbursement for reasonable expenses payable to third parties and necessarily incurred in relation to the administration of your account, including, without limitation, expenses relating to account keeping expenses and setting up direct debit instructions.

4.CLIENT'S REPRESENTATIVES

4.1 REPRESENTATIVES

The Client is required to designate and maintain one or more authorized individuals (which may include the Client themselves) according to the procedure outlined in clause 4.2, to issue Notices and Proper Instructions to Capital Guard on their behalf.

4.2 AUTHORISED PERSONS

a) The Client must certify to Capital Guard in writing, both on or before the Effective Date and whenever necessary thereafter, the full name, position, and specimen signature (or its electronic equivalent) of each individual authorized to provide Proper Instructions and Notices on behalf of the Client, along with their email addresses. Each of these individuals will be referred to as an Authorised Person.

b) Capital Guard is entitled to rely on the identity and authority of such Authorised Persons when any email is received from an Authorised Person's recorded email address, even if the email may not have actually been sent by that individual.

4.3 CHANGES

- a) The Client may, at any time, modify, change, add to, remove, or replace the details of any Authorised Person authorized to issue Proper Instructions and Notices on the Client's behalf by providing Capital Guard with a new Proper Instruction.
- b) Such Proper Instructions must be in a format agreed upon in writing by both parties, specifying the full name and position of any individual whose authority to issue Proper Instructions and Notices has been revoked, along with the date of revocation. It should also include the full name, position, and specimen signature (or its electronic equivalent) of any newly authorized person, along with the date of their authorization.
- c) Capital Guard is entitled to rely on the identity and authority of any Authorised Person until it receives a Proper Instruction from the Client revoking such authority, irrespective of the "Date of Revocation" stated in the Proper Instruction or any other written agreement between the parties.

4.4. INSTRUCTIONS

- a) The Client may designate an agent to issue Proper Instructions in accordance with this clause 4.4.
- b) The Client must promptly notify Capital Guard in writing:
 - (i) of the appointment of any agent; and
 - (ii) of the revocation of any agent's appointment, in a form agreed upon by both parties in writing.
- c) The Client will ensure that any agent appointed possesses all necessary powers and authority to:
 - (i) manage the Client's Assets;
 - (ii) operate the accounts or sub-accounts that comprise the Client's Assets; and
 - (iii) provide Capital Guard with Proper Instructions related to these matters.

4.5 RESPONSIBILITIES

The client agrees that:

- a) The Client is fully responsible for the actions and omissions of all Authorised Persons, including any breaches of this Agreement committed by those individuals.
- b) Capital Guard is entitled to rely on the identity and authority of any Authorised Person until it receives a Proper Instruction from the Client revoking such authority, regardless of the "Date of Revocation" specified in the Proper Instruction or any other written agreement between the parties.
- c) Capital Guard must be given a reasonable amount of time to act on any appointment or revocation made by the Client in accordance with the procedures outlined in this clause 4.
- d) Capital Guard may consider the actions and omissions of any Authorised Person, as well as any breaches by them, as actions and omissions of the Client under this Agreement.

4.6 INDEMNITY OF LIABILITY

Subject to those provisions of the Competition and Consumer Act 2010 (Commonwealth), the Australian Securities and Investments Commission Act 2001 (Commonwealth), the Corporations Act, any other legislation, and any other rights, duties, or obligations imposed or implied by law which cannot be excluded by agreement between the parties, to the extent each of the following is not prohibited by those laws:

(a) We make no warranties, either expressly or impliedly, as to merchantability, fitness for a particular purpose, or otherwise (including as to accuracy, currency, availability, completeness, or quality) with respect to any services we provide under these Terms, including, without limitation, the Online Service.

(b) Capital Guard excludes all liability in contract, tort, or otherwise relating to or resulting from the use of any services we provide under these Terms and for any Loss incurred by you directly or indirectly, including without limitation as a result of or arising out of:

(i) Any inaccuracy, error, or delay in or omission from any information provided to you under these Terms, including the Online Service;

(ii) Any delays, failures, inaccuracies, or loss of access to the provision of a service to you, including, without limitation, any delay, failure, or inaccuracy in, or the loss of access to, the Online Service or the transmission of Orders or any other information;

(iii) Any misinterpretation of your Orders or instructions which are unclear, ambiguous, or not specific;

(iv) Any government restriction, Exchange or market rulings, suspension of trading, failure of telecommunications, unlawful access to our Online Service, theft, sabotage, war, earthquakes, strikes, force majeure, or any other conditions beyond our control.

(c) Capital Guard is not liable in contract, tort (including negligence), or otherwise for any loss of prospective profits, expenses, or special, indirect, or consequential damages resulting from the supply of a service, including, without limitation, the Online Service.

(d) Capital Guard makes no representations or warranties, either express or implied, that:

(i) Any Exchange System (or any part of it) or any service performed in respect of it will meet your requirements or the requirements of any user; or

(ii) The operation of, or services performed in respect of, any Exchange System will be uninterrupted or error-free.

(e) Capital Guard is not liable for any breach of a provision of any relevant legislation, negligence, injury, lost profits, loss of data, or losses incidental to the operation of any Exchange System, except to the extent that it is caused by the negligence or dishonesty of Capital Guard or its employees, agents, or representatives.

To the fullest extent permitted by law, you release, discharge, and indemnify and agree to keep Capital Guard and its respective officers, employees, agents, and representatives indemnified from and against all Claims arising out of:

(a) Any default by you, whether by your act or omission under these Terms or any Order or Transaction;

(b) Any breach by you of any Applicable Laws;

(c) Any representation or warranty made or given by you under these Terms proving to be untrue or incorrect;

(d) Any error, omission, fraud, malfeasance, negligence, misappropriation, or criminal act or omission by you or by any of your employees, agents, Authorised Persons, consultants, or service providers;

(e) Any failure of your computer or electronic systems to perform, be available, or successfully transmit data to Capital Guard, or any error or inadequacy in the data or information input into such systems or networks by you;



- (f) Any delays in processing any Order, including, for example, as a result of system or market delays, verification or filtering procedures, unauthorised processes, email delays, or due to telephone call waiting times or adherence to internal policies and procedures;
- (g) Anything lawfully done by Capital Guard in accordance with, pursuant to, or incidental to these Terms;
- (h) Acting on any instruction, request, or direction given by you, including a standing instruction or any Order;
- (i) Capital Guard complying with any direction, request, or requirement of Applicable Laws, any Financial Market, any government body, or any regulatory body having jurisdiction over Capital Guard;
- (j) Any action taken by Capital Guard in good faith in accepting and acting on instructions received by electronic transmission (including email) or by other means, which are signed or purported to be signed or otherwise made by you or any Authorised Person;
except only to the extent attributable to the breach of these Terms by Capital Guard or gross negligence or fraud by Capital Guard, or liability which by law may not be imposed on you.

4.7 AUTHORITY

Capital Guard is entitled to rely on:

- (i) any instructions, notice, request, consent, certificate, instrument, or document that it reasonably believes:
 - A) to be genuine; and
 - B) to have been properly executed or provided by or on behalf of the Client; and
- (ii) in cases where the Client is a corporation, unless it has received written notice to the contrary, a certificate signed by two directors, or one director and the secretary, or a sole director and secretary of the Client, as conclusive evidence of:
 - A) the authority of any individual to act in accordance with such a certificate; or
 - B) any determination or action taken by the Client as described in that certificate.
- (iii) This certificate may be deemed valid and in effect until Capital Guard receives notice to the contrary.

4.9. CLIENT ACKNOWLEDGEMENT

1. You, the Client, authorize Capital Guard to pass on or deliver all such documents and information to any person having the right to request such documents and information.
2. You, the Client, will indemnify and keep indemnified Capital Guard and each of its related bodies corporate and their respective directors, officers, employees, and agents from and against all sums of money, actions, proceedings, suits, Claims, complaints, demands, damages, costs, expenses, and any other amounts whatsoever claimed against any of them.
3. Subject to applicable legal or regulatory requirements, the Client agrees and acknowledges that Capital Guard's directors, employees, and associates (and their directors and employees) may deal on their own account in Transactions which may be the same as or differ from your Transactions.
4. Capital Guard may, in its sole discretion and without explanation, refuse to deal with or on behalf of the Client in relation to any Transaction (including Closing Out existing Open Positions held in the Account on behalf of the Client) or to limit the number of Open Positions of the Client, or both.



5. If (in the sole discretion of Capital Guard) errors have occurred in the pricing of Transactions made by Capital Guard and the Client, Capital Guard may choose not to be bound by such Transactions and cancel them as though they never existed (without further liability to the Client).
6. There are risks associated with using an internet-based deal execution trading system, which include, but are not limited to, the failure of hardware, software, and internet connection. Since Capital Guard does not control data flows, internet or power connections, routing via the internet, configuration of your equipment, or the reliability of its connection, Capital Guard will not be responsible for communication failures, distortions, or delays when trading (including processing payments) via the internet.

5. PROPER INSTRUCTIONS

5.1 CUSTODIAN'S AUTHORITY

- a) The Client grants Capital Guard the authority and direction to act on any Proper Instructions, provided they comply with the limitations outlined in this Agreement.
- b) The Client acknowledges that Capital Guard is only obligated to act upon Proper Instructions.

5.2 INSTRUCTIONS

1. A Proper Instruction may be provided:
 - a) by the Client or any Authorized Person;
 - b) to Capital Guard when the Client wishes Capital Guard to manage an Asset; and can take any of the following forms:
 - a) in writing, following the format and methods specified in clause 19;
 - b) through an Authenticated Communication;
 - c) via oral communication, telephone, email, or other electronic means that appear to be from the Client or any Authorised Person;
 - d) in any other manner mutually agreed upon by Capital Guard and the Client from time to time.
2. The Client acknowledges that any Proper Instructions received by Capital Guard will be regarded as having been issued by the Client and will be binding upon them.
 - a) Capital Guard is entitled to assume that any Authorised Person remains authorized until CAPITAL GUARD receives written notification to the contrary.
3. The Client acknowledges that Capital Guard is not obligated to follow any instructions (including Proper Instructions) that, in Capital Guard's judgment:
 - a) are incomplete, ambiguous, or unclear;
 - b) contradict the terms of this Agreement, applicable law, or local market practices; or
 - c) could potentially expose Capital Guard to loss or liability.
4. Capital Guard will either directly or ensure that its Agent will, as soon as reasonably practicable:
 - (i) notify the person who issued the Proper Instructions, to the extent permitted by law, if Capital Guard cannot fully comply with those instructions for any reason, along with an explanation for the inability to comply; and
 - (ii) take reasonable steps to inform the Client and seek clarification or confirmation before executing any Proper Instructions that CAPITAL GUARD believes:



- A) are ambiguous or unclear;
- B) contain a manifest error; or
- C) conflict with earlier Proper Instructions, unless clause 5.6(a) is applicable.

5. If Capital Guard reasonably requires clarification of any Proper Instructions, it will not be liable for any losses resulting from delays in obtaining such clarification, provided that it:

- requests the clarification promptly; and
- uses reasonable efforts to minimize any such delays.

6. Any Proper Instructions that cancel or supersede earlier Proper Instructions must be received by Capital Guard at a time and in a manner that allows Capital Guard a reasonable opportunity to act upon them.

a) Capital Guard or its Agent may undertake any actions that, in Capital Guard's reasonable opinion, are necessary or incidental to executing any Proper Instructions given under this Agreement.

5.3 LIMITATION OF LIABILITY

Capital Guard will not be liable for any losses arising in the following circumstances:

a) if a Proper Instruction is not received in sufficient time, considering the nature of the Proper Instruction, for Capital Guard to act on it; if the counterparty to the transaction outlined in the Proper Instruction does not accept it for any reason unrelated to Capital Guard's fault. Capital Guard will not be considered at fault if it is ineligible to act on a Proper Instruction received from the Client.

5.4 CLIENT'S INTERNAL CONTROLS

The Client shall establish internal procedures to guarantee that only Proper Instructions, which are duly authorized by the Client in accordance with this Agreement, are received by Capital Guard.

5.5 AUTHENTICATED COMMUNICATIONS

a) A communication between the Client and Capital Guard will be classified as an Authenticated Communication if it is verified by either:

- (i) a test mechanism integrated within the communication system; or
- (ii) a test key, smart card, or other electronic security system that Capital Guard has issued to the Client, with written acknowledgment received from the Client confirming the communication's origin. This verification ensures that:

- A) both the sender and recipient are the intended parties for the information being communicated; and
- B) the content of the communication complies with Capital Guard's system standards requirements.

b) Capital Guard shall be indemnified and held harmless by the Client and shall have no liability to the Client or any other party for any actions taken or not taken in reliance on information transmissions that include the correct security code, test keys, or passwords, including instructions



that appear to be Proper Instructions, which Capital Guard reasonably believes are from the Client.

c) The Client must take all reasonable measures, and ensure that any agents of the Client take such measures, to protect any security codes, passwords, test keys, or other security devices provided by Capital Guard.

5.6 RECEIPT OF INSTRUCTIONS

Upon receiving any Proper Instruction from the Client, Capital Guard will either process it directly or take reasonable steps to ensure that its Agent uses reasonable efforts to process the Proper Instruction as quickly as possible after receipt.

6. COMMUNICATIONS RELATING TO CLIENT'S ASSETS

a) Unless otherwise agreed by the parties, if Capital Guard receives written information regarding the Client's Assets held under this Agreement and determines, at its sole discretion, that the information is material, Capital Guard will, as soon as reasonably practicable:

(i) inform the Client that such information is available and provide guidance on how to access it;

(ii) deliver the written information directly to the Client; or grant the Client access to the written information through a link or specific instructions, unless such transmission is restricted or prohibited by relevant law or by the issuing party or its agent.

b) Notwithstanding clause 6.1(a), Capital Guard shall not be liable for, nor has any obligation to verify, the accuracy or content of the written information received and forwarded to the Client, and it makes no representations regarding the accuracy or completeness of any translated information provided to the Client.

c) The Client acknowledges and agrees that, subject to Applicable Law, Capital Guard will not be liable for failing to pass on any written information received if it deems, at its sole discretion, that the information is not material to the Client.

d) The Client recognizes that Capital Guard will not be liable to the Client or any third party for any loss resulting from reliance on any Notice forwarded from Capital Guard to the Client.

e) Due to the potential for misinterpretation of Proper Instructions given orally—whether in person, via voicemail, or over the telephone—the Client acknowledges and agrees that neither Capital Guard nor the Sub-custodian shall be liable, under any circumstances, to the Client or any third party for any loss arising from Capital Guard's and/or the Sub-custodian's inadvertent misinterpretation or misunderstanding of any Proper Instructions provided orally to Capital Guard.

6.2 LIMITATION OF LIABILITY

Capital Guard will not be held liable for any delays in exercising any rights or powers related to a Client Asset unless it has received Proper Instructions and the Sub-custodian has actual possession of those Client Assets at least three (3) Business Days before the date on which such right or power is intended to be exercised.

7. ENCUMBRANCES OVER CLIENT'S ASSETS

7.1 NO ENCUMBRANCES

Subject to clause 7.2 and unless allowed by Applicable Law regarding expenses and outlays incurred by Capital Guard under this Agreement, Capital Guard is prohibited from placing any charge, mortgage, lien, or other encumbrance on or related to the Client's Assets.

7.2 LIEN AND RIGHT OF SET OFF

Capital Guard:

- a) maintains a continuous lien over the Client's Assets; and
- b) may exercise a right of set-off against the Client's Assets at any time to cover any:
 - (i) expenses incurred by Capital Guard under this Agreement that the Client fails to promptly reimburse or any other amounts due for payment by the Client to Capital Guard under this Agreement; or
 - (ii) other amounts in line with the Client's instructions. However, if the Client holds an AFSL, this clause 7.2 does not apply (and is deemed limited accordingly) to the extent that it conflicts with any conditions of the Client's AFSL that prohibit Capital Guard from taking a lien over, or exercising a right of set-off against, the Client's Assets.

7.3 AUTHORITY

To fully and effectively exercise the lien and right of set-off outlined in this clause 7, Capital Guard may take any additional actions in the name of the Client that it deems reasonably necessary.

8. AGENTS

8.1 APPOINTMENT BY CAPITAL GUARD

Capital Guard may, with the Client's prior written consent (which shall not be unreasonably withheld or delayed), appoint and utilize the services of any other individual or entity (including a Related Entity) as an Agent.

8.2 DELEGATION OF CUSTODIAN

- a) Capital Guard may delegate to an Agent the performance of any of the duties and exercise of the powers of Capital Guard under this Agreement as Capital Guard considers it necessary or desirable to carry out its 19 obligations under this Agreement.
- b) Capital Guard may appoint a Sub-custodian to perform any of Capital Guard's duties under this Agreement with all or any of Capital Guard's powers under this Agreement, including the power of delegation in this clause 8.2.

8.3 SUB-CUSTODIAN

The client:

- a) The Client agrees and acknowledges that Capital Guard has appointed a Sub-custodian to hold the Client's Assets without requiring the Client's express written consent or authority;
- b) The Client also agrees that Capital Guard may engage the services of any other Sub-custodian without the need for the Client's express written consent or authority.

8.4 RESPONSIBILITY FOR AGENTS (INCLUDING SUB-CUSTODIANS)

a) If Capital Guard appoints an Agent that is a Related Entity, Capital Guard assumes the same level of responsibility for the actions of that Related Entity as it does for its own actions.

b) However, if Capital Guard appoints an Agent that is not a Related Entity ("Non-Related Entity"), Capital Guard is not liable to the Client for any solvency issues, actions, or omissions of the Non-Related Entity or any other third party holding the Client's Assets (or the documents evidencing those Assets).

c) In the event that the Client suffers loss or damage due to the solvency, actions, or omissions of a Non-Related Entity, Capital Guard will, upon reasonable written request from the Client, either:

- (i) make available to the Client any rights Capital Guard may have against the Non-Related Entity or any other third party; or
- (ii) take all reasonable and necessary steps to recover the loss and damage incurred by the Client from the Non-Related Entity or any other third party, with any recovered funds paid to the Client, minus any expenses and costs incurred by Capital Guard during the recovery process, provided that the Client indemnifies Capital Guard as reasonably required for such actions (including legal costs and expenses on a full indemnity basis).

8.4 RESPONSIBILITY OF CAPITAL GUARD

a) Capital Guard is responsible for:

- (i) prudently selecting and monitoring the performance of any Agent it appoints under this clause 8;
- (ii) all remuneration and other financial arrangements with those Agents unless otherwise agreed upon with the Client; and
- (iii) making reasonable inquiries to ensure that those Agents continue to exercise reasonable care in providing the Services.

b) Capital Guard has the right to terminate the appointment of any Agent at its discretion.

c) When Capital Guard appoints a Sub-custodian, there must be a written agreement with that Sub-custodian addressing, to the extent practical and relevant:

- (i) the issues covered in this Agreement; and
- (ii) the liability of the Sub-custodian to both Capital Guard and the Client.

d) Capital Guard will provide the Client with written notice at the earliest practical time regarding:



- (i) the termination of any Sub-custodian's appointment that holds the Client's Assets; and
- (ii) any proposed subsequent appointment of a new or replacement Sub-custodian to hold the Client's Assets.

e) Capital Guard will not be liable for losses resulting from the insolvency of a Sub-custodian appointed by it.

8.5 SECURITIES DEPOSITARIES AND CLEARING AGENCIES

a) The Client:

- (i) authorizes Capital Guard and its Sub-custodians to appoint and deposit all or any part of the Client's Assets with a Securities System;
 - (ii) understands and agrees that any securities depository or clearing agency operating the Securities System is not an Agent of Capital Guard or its Sub-custodians; and
 - (iii) agrees that Capital Guard and its Sub-custodians are not liable to the Client for the solvency, acts, or omissions of any such securities depository or clearing agency or the Securities System.
- Capital Guard will, and will request its Sub-custodians to, make available to the Client, when and to the extent reasonably requested by the Client, any rights that Capital Guard and its Sub-custodians may have against such securities depository or clearing agency or the Securities System.

9. CAPITAL GUARD'S LIABILITY

Notwithstanding any other term of this Agreement:

a) Capital Guard will have no liability to the Client or any other person, whether for negligence, breach of contract, breach of duty, breach of regulation, misrepresentation, or otherwise, in respect of the provision of Services or otherwise for any:

- (i) loss of profit, loss of goodwill, loss of opportunity, or any other economic loss;
- (ii) indirect, special, punitive, or consequential Losses (whether or not in the contemplation of the parties at the date of this Agreement); or
- (iii) any damage, loss, cost, or expense resulting from or caused by:

A) events or circumstances beyond Capital Guard's control, including currency restrictions, disruption of the normal procedures and practices of any securities market, power or communications services failure, acts of war or terrorism, riots, or revolution;

B) the occurrence of a Force Majeure Event;

C) the general risks of investing;

D) acting in good faith on Proper Instructions; or

E) acting upon any certificate, consent, instruction, instrument, Notice, or request reasonably believed by it to be genuine and to be signed or otherwise given by the proper party or parties.

b) Capital Guard shall have no liability to the Client or any other person for any damage, loss, cost, or expense to the extent that:



- (i) such damage, loss, cost, or expense is caused by or contributed to by a breach of trust by the Client in connection with the Client's Assets;
- (ii) the Client could have reduced or avoided such damage, loss, cost, or expense by exercising reasonable care and diligence in seeking to mitigate such damage, loss, cost, or expense; and/or
- (iii) such damage, loss, cost, or expense is caused by the misconduct, negligence, or fraud of, or the breach of the terms of this Agreement by the Client or any of its officers, agents, or employees.
- (iv) Where, in taking any action to compensate a Client under this Agreement, Capital Guard receives a benefit as a consequence of such action, the Client agrees that Capital Guard may retain such benefit on its own account.

10.CLIENT'S OBLIGATIONS AND INDEMNITY

10.1 PERFORMANCE AND DISCHARGE OF OBLIGATIONS

The Client will:

- a) provide Capital Guard, on request, with any documents, information, or Proper Instructions reasonably required by Capital Guard to enable it to perform the Services; and
- b) execute such documents and do such acts, at its expense, as may reasonably be required by Capital Guard to comply with any Applicable Law which directly impacts upon the discharge by Capital Guard of its obligations under this Agreement.

10.2 REGULATOR'S COMMUNICATIONS

The Client will provide Capital Guard with a copy of any communication from a Regulator immediately upon receipt that affects or might affect:

- a) the Client's ability to exercise its rights and perform its obligations in relation to the Client's Assets and this Agreement; or
- b) Capital Guard or any of its agents in relation to the performance of their obligations or exercise of their powers under this Agreement.

10.3 CLIENT'S INDEMNITY

- a) To the extent that a Claim or Loss does not arise from Capital Guard's fraud, negligence, or willful misconduct, the Client:
 - (i) indemnifies Capital Guard and its Sub-custodians against any Claim or Loss which Capital Guard or its Sub-custodians pays, suffers, incurs, or is liable for in connection with:
 - A) the performance (or non-performance, as the case may be) by Capital Guard or by any Sub-custodian of the Services;
 - B) a failure by the Client to perform its obligations under this Agreement;
 - C) receiving funds upon the redemption or sale of any Securities held by Capital Guard or any of its



Sub-custodians as custodian or agent for the Client, or the payment or application of those proceeds to the Client;

D) receiving funds upon the payment of interest or coupons relating to any Securities held by Capital Guard or any of its Sub-custodians as custodian or agent for the Client, or the payment or application of those proceeds to the Client;

E) any entity appointed by Capital Guard as a Sub-custodian in respect of Securities claiming the recovery of any amount from Capital Guard or its Sub-custodians under the arrangements with that entity in connection with:

- (1) the redemption of those Securities;
- (2) receiving interest or coupons relating to those Securities; and
- (3) payment of the proceeds, interest, or coupons to the Client; and

b) will pay the same on receipt of a written demand from Capital Guard. Capital Guard holds the indemnity in respect of its Sub-custodians on trust for the relevant Sub-custodian.

c) No act or omission of Capital Guard or its Sub-custodians will constitute fraud, negligence, or willful misconduct for the purposes of this clause to the extent to which the act or omission was caused or contributed to by the Client or its employees, servants, or agents.

c) ACCESS TO INFORMATION

11.1 MAINTENANCE OF RECORDS

a) Capital Guard will, and will cause its Sub-custodians to, maintain proper and accurate records of:

- (i) the Client's Assets held by Capital Guard or its Sub-custodians;
- (ii) all Distributions and income received in respect of the Client's Assets;
- (iii) any acquisition or disposal of the Client's Assets and the amount paid or received for each acquisition or disposal; and
- (iv) all transactions in the Bank Account or Bank Accounts held by Capital Guard for the Client.

b) Records will be maintained by Capital Guard in accordance with its internal records maintenance policy, as amended from time to time.

11.2 AUDIT BY THE CLIENT

Capital Guard will, upon the written request of the Client and at the Client's expense:

- a) allow the Client and its auditors reasonable access during business hours to the Records and internal accounting procedures and controls of Capital Guard for normal audit purposes;
- b) give reasonable assistance to the auditors of the Client to enable them to perform their functions; and
- c) procure that similar access is made available by its Sub-custodians.

11. FEES AND EXPENSES

12.1 FEES



- a) the Client is not required to pay any separate fees or expenses to Capital Guard for the Services.
- b) Capital Guard reserves the right to introduce fees and recover expenses for the Services in the future. If this occurs:
 - (i) Capital Guard will provide the Client with 60 days' written notice before these fees and expenses take effect;
 - (ii) Capital Guard will outline the fee amounts, the applicable period, and the billing procedures; and
 - (iii) clauses 12.2 to 12.6 will then come into effect.
- c) If the Client does not wish to accept the newly imposed fees and expenses, they may terminate this Agreement within the 60-day notice period, in which case clauses 14.1 to 14.6 will apply.

12.2 PAYMENT OF FEES

The Client agrees to pay Capital Guard the Fees for the Services.
The Fees will be paid by the Client to Capital Guard on a monthly basis, in arrears, within 14 days after the end of each calendar month.

12.3 INTEREST OF FEES

- a) If the Client fails to pay the Fees within the time specified in clause 12.2(b), Capital Guard may charge the Client interest on any overdue amount, starting from the due date and continuing until full payment is made. Interest is payable upon demand.
- b) Interest will accrue daily on any unpaid amount at a rate determined by Capital Guard, and if not paid, will be compounded every seven days.

12.4 DEBIT CREDIT

The Client acknowledges and agrees that Capital Guard may request payment of the Fees by directly debiting the Client's Bank Account.

12.5 EXPENSES AND OUTLAYS

Expenses and outlays incurred by Capital Guard in performing the Services are not included in the Fees and will be recovered from the Client as follows:

- a) For amounts up to \$1,000 in a single payment, the Client agrees that Capital Guard may recover these amounts by directly debiting the Client's Bank Account (except the Retail Account) without requiring explicit authorization for each payment.
- b) For amounts exceeding \$1,000 in a single payment, the Client must pay the amounts specified in the invoice within 30 days of receiving it.

12.6 INFORMATION ABOUT EXPENSES AND OUTLAYS

Upon request, Capital Guard must provide the Client with information about the current Fees, expenses, and outlays incurred in connection with the performance of the Services.

12.7 GST

- a) Terms used in this clause 12.7 will have the same meaning as in the GST Law.
- b) The consideration for any supply made under or in connection with this Agreement does not include GST.
- c) If any supply made under or related to this Agreement is a taxable supply, the consideration for that supply will be increased by the GST amount. The recipient must pay the increased amount at the same time the original consideration is due, or, if the consideration has already been paid, within 7 days of receiving a written demand from the supplier.
- d) The recipient must pay the determined GST amount even if it disputes the calculation.
- e) If an adjustment event occurs that changes the GST amount on a supply, within 14 days of becoming aware of the adjustment:
 - (i) the supplier may recover from the recipient any additional GST by giving 7 days' written notice, or
 - (ii) the supplier must refund the recipient any overpaid GST if entitled to a refund or credit from the Commissioner of Taxation.
 - (iii) The supplier must issue an adjustment note or tax invoice reflecting the adjustment event within 28 days.
- f) The supplier's right to recover any GST amount under this Agreement is contingent upon issuing a valid tax invoice or adjustment note to the recipient.
- g) Any costs or revenue that are to be reimbursed, indemnified, or used as a basis for calculating consideration under this Agreement must exclude GST to the extent the party is entitled to claim an input tax credit for that amount.

13. TERMINATION AND REFUNDS

13.1 TERMINATION

1. This Agreement will begin on the Effective Date and remain in effect until it is terminated as outlined in clauses 13.1(b) or (c).
 - a) Either party may terminate this Agreement by providing the other party with 60 days' written notice.
 - b) Notwithstanding clauses 13.1(a) and (b), this Agreement will terminate:
 - (i) immediately upon notice from the Client to Capital Guard:
 - A) if Capital Guard or any of its officers, employees, Related Entities, contractors, or agents is knowingly involved in any fraudulent conduct related to the Client's Assets or the performance of the Services; or
 - B) if Capital Guard's AFSL is suspended or cancelled as per Subdivision C, Division 4 of Part 7.6 of the Corporations Act;
 - (ii) immediately upon notice from a party following an Event of Default;
 - (iii) immediately upon notice from the Client in accordance with clause 3.13(b); or
 - (iv) immediately upon notice from the Client rejecting a variation in accordance with clause 20.3.
 - C) **Capital Guard** may terminate these Terms at any time by giving the other party notice.
2. The termination of these Terms does not affect:



- Outstanding obligations under these Terms that remain undischarged at the time of termination;
 - Limitations of liability or recourse;
 - Indemnities provided for in these Terms; or
 - Any other clause in these Terms that states or implies that it survives termination.
-
- Termination of this Agreement under clause 13.1 does not affect any rights either party may have against the other, whether under this Agreement or otherwise.
 - Clauses 9, 10, 17, and 13.2 will remain in effect and continue to apply after the termination of this Agreement.

3. Each indemnity provided within these Terms survives termination of these Terms.

4. Either you or Capital Guard may terminate a Schedule within these Terms at any time and for any reason by giving notice to the other party, without terminating another Schedule under these Terms. Termination of a Schedule does not affect outstanding obligations that remain undischarged at the time of termination, whether under the terminated Schedule or otherwise. Each indemnity in these Terms survives the termination of any Schedule.

5. Upon termination of these Terms (or a **relevant Schedule**), and without limiting clause **X.X**, this clause **survives termination**, and **Capital Guard** may do one or more of the following:

(a) **Cancel any outstanding Orders;**

(b) **Settle any Transaction** that has not been settled at the time of termination;

(c) **Exercise any other rights Capital Guard has under these Terms;**

(d) **Take or refrain from taking any other reasonable action** in the context of these Terms (or any part of them) having been terminated.

6. Upon termination of this Agreement, the Client will:

- a) make all reasonable efforts to promptly arrange for alternative custody of the Client's Assets; and
- b) fully cooperate and ensure its Successor also cooperates with Capital Guard and its Sub-custodian to enable the prompt transfer of the Client's Assets within the Transfer Period.

7. Upon termination of this Agreement, Capital Guard will, or take reasonable measures to ensure its Agent will:

- a) deliver the Client's Assets within a reasonable time as specified by the Client, in accordance with:
 - (i) Proper Instructions; or
 - (ii) if no Proper Instructions are provided in a reasonable time, according to the Client's instructions;and
- b) fully cooperate with the Client and the Successor in facilitating the prompt transfer of the Client's Assets within the Transfer Period.

8. During the Transfer Period, Capital Guard will, or take reasonable measures to have its Agents, if requested by the Client and where practical, continue to provide all or part of the Services for the Client's Assets in accordance with this Agreement.



9. All Securities delivered in accordance with clause 13.1 (8) above:

- a) will be duly endorsed and in a form suitable for transfer; and
- b) if held in a Securities System, will be transferred to the account of any successor custodian in that Securities System.

10. Upon termination of this Agreement, the Client will promptly pay Capital Guard, upon demand, any outstanding Fees, expenses, and outlays due as of the termination date.

11. The Client will also pay Capital Guard on demand:

- (i) an amount equivalent to the Fees, expenses, and outlays that would have accrued if the Agreement had not been terminated, as compensation for Services provided during the Transfer Period; and
- (ii) all costs, expenses, and disbursements incurred by Capital Guard or its Agent in transferring the Client's Assets under clause 14.2.

12. If the Client's Assets remain in Capital Guard's or its Agents' possession after the Transfer Period, Capital Guard will be entitled to receive payment on demand for Fees, expenses, and outlays for the continued provision of Services during the time Capital Guard holds those Client Assets and continues providing the Services.

- a) The provisions of this Agreement concerning Capital Guard's duties and obligations will remain fully in effect during this period.
- b) If Client Assets remain in Capital Guard's possession beyond the Transfer Period, Capital Guard or its Agent may, at its discretion and in accordance with the relevant law, apply to any Court for directions or orders regarding who should continue to hold or receive the transfer of the Client's Assets. Capital Guard will be entitled to reimbursement from the Client's Assets for the costs of such an application, subject to any Court orders.

13.2. Refund

1. By entering into an agreement with Capital Guard, the client acknowledges and agrees to the refund conditions outlined herein. Refunds will only be processed in accordance with the conditions set out in this policy.

2. Eligibility for Refunds

Refunds may be issued under the following circumstances:

- Errors in the issuance of financial products, including incorrect pricing, maturity terms, or specifications.
- Administrative or processing errors, such as duplicate transactions or misapplied charges.
- If Capital Guard is found to have breached regulatory obligations, resulting in financial harm to the client.
- Unauthorized transactions caused by technical errors or fraudulent activities.
- Overpayment or erroneous fee deductions beyond what is stipulated in the agreement.

3. Non-Refundable Situations

Refunds will **not** be granted under the following conditions:



- Losses due to market fluctuations or investment performance.
- Voluntary liquidation or redemption of financial products unless an error or breach is identified.
- Refund requests submitted after the allowed notification period without sufficient justification.
- Losses arising from the client's own actions, decisions, or non-compliance with the terms of this agreement.

4. Refund Request Process

Clients who wish to request a refund must follow these steps:

1. Submission of a Refund Request
 - The request must be made in writing via email or official correspondence, including full client details, a description of the financial product, and the reason for the refund request.
2. Review and Investigation
 - Capital Guard will acknowledge the request within 2 business days and conduct a thorough review within 14 business days to assess eligibility.
3. Decision Notification
 - Clients will be notified in writing regarding the approval or rejection of their refund request.
 - Approved refunds will be processed within 7 business days using the original payment method or an alternative agreed upon by both parties.

5. Dispute Resolution

If a client is dissatisfied with the refund decision, they may escalate their concern through:

- Internal Dispute Resolution (IDR): Contacting Capital Guard's Dispute Resolution Officer.
- External Dispute Resolution (EDR): Filing a complaint with the Australian Financial Complaints Authority (AFCA) via www.afca.org.au.

15. REPRESENTATION AND WARRANTIES

15.1 REPRESENTATION AND WARRANTIES

Each party represents and warrants to the other that:

- a) It has the authority to enter into and fulfill its obligations under this Agreement, and has properly executed the Agreement, making it valid and legally binding upon them; and
- b) It has the necessary power under its constitution and any applicable laws and regulations to enter into this Agreement and carry out its obligations.

15.2 CUSTODIAN REPRESENTATIONS AND WARRANTIES

Capital Guard represents and warrants that:

- a) This Agreement is valid and binding upon Capital Guard;
- b) The entry into and performance of this Agreement by Capital Guard does not: (i) Constitute a breach of any obligations, including but not limited to statutory, contractual, or fiduciary obligations; or (ii) Cause a default under any agreement or undertaking to which CAPITAL GUARD is bound;
- c) Capital Guard:



- (i) Holds an AFSL (Australian Financial Services Licence) authorizing it to provide the Services;
- (ii) Has the authority to enter into and perform this Agreement and has obtained all necessary consents to do so;
- (iii) Holds, and will continue to hold, all required licences, consents, approvals, and authorities necessary to lawfully perform its obligations under this Agreement;

Will always have in place full disaster recovery procedures and backup facilities for the records and information it maintains concerning the Client and the Client's Assets under this Agreement and will regularly test these procedures; and

- (iv) Along with its Sub-custodians, has the necessary capacity to perform the essential administrative activities in relation to the Services, including, without limitation:

A) Secure and capable computer systems for handling record keeping and transaction processing for the Client's Assets, including the capacity to separately identify them;

B) Procedures for accurately recording all the Client's Assets and their movements;

C) Access to information sources relevant to corporate actions, proxy voting, or pricing data;

D) Access to, and if necessary, membership in depositories related to the Client's Assets;

E) Access to, and if necessary, membership in relevant settlement and clearance systems; and

F) Access to the necessary domestic or global sub-custodial networks.

d) Capital Guard will inform the Client as soon as reasonably practicable if any of the statements in clause 15.2(c) cease to be true and correct after the date of this Agreement.

15.3 CLIENT'S REPRESENTATIONS AND WARRANTIES

a) The Client represents and warrants to Capital Guard that:

(i) If the Client is a corporation, it is properly incorporated under the Corporations Act;

(ii) The Client:

A) Has the authority to enter into and fulfill its obligations under this Agreement;

B) Has duly executed this Agreement, establishing valid and binding obligations for the Client;

(iii) The Client's entry into and performance of this Agreement does not:

A) Constitute a breach of any obligations, including but not limited to statutory, contractual, or fiduciary obligations; or

B) Result in a default under any agreement or undertaking to which the Client is bound;

(iv) The Client holds all necessary licences and authorities to lawfully perform its obligations under this Agreement;

(v) The Client has executed this Agreement in its capacity as Client and, if applicable, as trustee for each trust and for the benefit of the beneficiaries of each trust;

(vi) If the Client is a trustee, it is the sole trustee of each trust, and to its knowledge, no actions have



been taken or proposed to prevent its appointment or to remove it as trustee;
(vii) If the Client is a trustee, it has the right to be fully indemnified from the relevant trust's assets for all obligations and liabilities incurred under this Agreement in the proper performance of its duties as trustee of the relevant trust.

b) The Client will promptly inform Capital Guard if any of the statements in clause 15.3(a) become untrue or incorrect after the date of this Agreement.

16. SETTLEMENT OF DISPUTES

16.1 MEETING TO RESOLVE

a) If a dispute arises out of or in connection with this Agreement, either party may send written Notice to the other party, detailing the specifics of the dispute. The representatives of both parties must meet within 10 Business Days to attempt to resolve the issue.

b) Both parties will continue to fulfill their obligations under this Agreement while the dispute is being resolved.

16.1 MEDIATION NOTICE

If the dispute remains unresolved after the 10 Business Days following the issuance of the written Notice, any party may issue a written notice (Mediation Notice) to the other parties, requesting that the dispute be referred to mediation.

16.2 MEDIATION

a) Upon serving a Mediation Notice, the notifying party may require the other party to participate in mediation in an effort to settle the dispute, with a mediator selected by mutual agreement.

b) If the parties cannot agree on the mediator's identity or the date, time, and location of the mediation, these will be determined by the President of the Australian Bar Association or a comparable organization.

c) The mediation will adhere to the principles established by the mediator.

d) The mediation process will be non-binding and will require the parties' mutual agreement to resolve the dispute.

16.3 COST

The costs associated with the mediator and the mediation will be shared equally between the parties, while each party will be responsible for its own legal costs.

16.4 LEGAL PROCEEDINGS

No party may initiate legal proceedings (except for injunctive relief, if necessary) without first attempting to resolve the dispute in accordance with this clause 16.

16.6. FEATURES AND RISKS OF TRANSACTIONS



You acknowledge and understand that there are significant features and risks involved in Transactions, including:

- (a) The value of Financial Products such as stocks and bonds can fluctuate due to changes in market conditions, company performance, interest rates, and economic events.
- (b) A relatively small market movement can lead to a proportionately larger movement in the value of your investment, and this can work against you as well as for you.
- (c) Markets outside of Australia might involve different risks compared to Australian markets, so the potential for profit or loss from Transactions relating to a non-Australian market or denominated in non-Australian currency will be affected by fluctuations in foreign exchange rates.
- (d) It is possible to incur a loss if, after acquiring an investment, exchange rates change to your detriment, even if the price of the stock or bond to which the Transaction relates remains unchanged.
- (e) There may be times when it is difficult or impossible to liquidate a position, such as during market volatility, trading halts, or when the relevant stock or bond is suspended from trading on an exchange.
- (f) If you trade in denominated currencies other than the Account currency, you may lose money or value of the investment due to exchange rate fluctuations, and these losses may be in addition to any losses on the value of the Financial Product itself.
- (g) A market disruption may mean that you are unable to trade when desired or in the amounts and prices you desire, and you may suffer a loss as a result. Disruptions can be caused by government or regulatory decisions, technical failures in trading or pricing systems, or external events such as natural disasters.
- (h) A regulatory authority may suspend trading in a stock or bond or alter the price at which a position is settled, which could result in a loss to the Client.
- (i) In some circumstances, an exchange or regulatory body may suspend trading or adjust terms of prices or trading, which may affect your ability to execute transactions at the desired price.
- (j) Capital Guard has powers and discretion to exercise those powers, without notice to you or providing reasons, for canceling Transactions or adjusting their prices or timing. While we will exercise our powers in accordance with these Terms and our statutory duties, you may incur losses and lose investment opportunities as a result.

2 No advice or recommendation is provided by Capital Guard in relation to your Transactions unless expressly stated otherwise.

17. CONFIDENTIALITY AND PRIVACY

17.1 CONFIDENTIALITY OF CAPITAL GUARDS

Capital Guard agrees to take reasonable steps to ensure the security of all Confidential Information and to maintain it in strict confidence. Capital Guard will not disclose, or allow the disclosure of, Confidential Information except in the following circumstances.



- a) Internal Disclosure: To representatives of Capital Guard or its Agents who require access to the Confidential Information for the purpose of providing the Services and other related services to the Client.
- b) Third-Party Disclosure: To third parties engaged by Capital Guard for the provision of the Services, provided that Capital Guard has entered into a confidentiality agreement with those third parties to safeguard the Confidential Information.
- c) Permitted Disclosure: As allowed under this Agreement.
- d) Regulatory Disclosure: As mandated by any securities exchange where any of the Securities are listed.
- e) Legal Proceedings: In the context of enforcing this Agreement, during any legal proceedings related to this Agreement, or if Capital Guard or its Sub-custodians deem it necessary to protect their interests.
- f) Government Orders: If required by an order from a Government Agency or any discovery procedures in any legal proceedings.
- g) Legal Compliance: If required by law or any administrative guidelines, directives, requests, or policies, whether or not they possess the force of law. If not possessing such force, the disclosure will be made in a manner that aligns with the practices of responsible Custodians in similar situations.
- h) Client Consent: With the prior written consent of the Client.

17.2 PERSONAL INFORMATION ABOUT SOMEONE ELSE

- a) If the Client provides Capital Guard with personal information about another individual or instructs someone else to provide their personal information to Capital Guard, the Client must inform that individual of the following:
 - (i) Notification of Data Holding: Capital Guard is in possession of personal information about that individual.
 - (ii) Purpose of Collection: The personal information collected will be used primarily for the purpose of Capital Guard providing the product or service contemplated by this Agreement.
 - (iii) Access to Information: The individual can access their information at any time by contacting Capital Guard. Capital Guard may impose a reasonable fee for access to this information.
 - (iv) Accuracy of Information: If the individual can demonstrate that the information Capital Guard holds about them is not accurate, complete, or up to date, Capital Guard will take reasonable steps to rectify the information to ensure it is accurate, complete, and current.
- b) Disclosure to Contractors: Capital Guard may share that individual's information with any contractor or service provider engaged by Capital Guard to provide services related to the Client's relationship with Capital Guard.



17.3 BREACH OF CONFIDENTIALITY

Capital Guard acknowledges that a breach of clause 17.1 or the National Privacy Principles may result in Capital Guard being required to reimburse the Client for any claims (Claims) arising from such breach, in accordance with the provisions outlined in clause 9 of this Agreement.

17.4 RECORDINGS

- 1.** You authorize Capital Guard to record any or all incoming and outgoing voice communications (including phone calls) with you without making a disclosure of this nature each time you speak with a representative of Capital Guard. These calls may be recorded with or without an audible tone. You agree that Capital Guard may use such recordings for the purposes of monitoring and training its staff, ensuring compliance with regulatory and contractual obligations, and resolving disputes. If there is a dispute between Capital Guard and you, you have the right to listen to any recording of those conversations (if still available). Nothing in these Terms obliges Capital Guard to keep a recording or to notify you if a recording has been deleted.
- 2.** Recordings may be used to assess the performance of or to train Capital Guard's representatives, monitor compliance with Capital Guard's regulatory and contractual obligations, and resolve disputes.
- 3.** Capital Guard is not obliged, unless required by Applicable Laws, to keep any transcripts or copies of telephone recordings or conversations, nor to notify you when a recording has been deleted.
- 4.** Subject to clause 3, Capital Guard may, upon request, provide copies of any telephone recording or transcript relating to your dealings if there is a dispute or anticipated dispute with respect to such dealings. You agree to pay any reasonable costs associated with providing any such transcript.

18. TAX MATTERS

18.1 OBLIGATIONS OF CAPITAL GUARD

Capital Guard's sole obligation regarding the tax law of any jurisdiction is to make reasonable efforts to assist the Client in relation to any claims for exemption or refund under the applicable tax laws for which the Client has provided the required information as stipulated in clause 18.1(b).

18.2 LIABILITY OF TAXES

Under no circumstances shall Capital Guard be held personally liable for any tax imposed on the Client concerning the Client's Assets or any income or gains derived from those Assets. The Client agrees to reimburse and indemnify Capital Guard for any such tax imposed on Capital Guard or its Sub-custodians, excluding income taxes assessable on fees paid to Capital Guard or its Sub-custodians under this Agreement or any related document. This indemnification includes, but is not limited to, additional charges for late payment, interest, penalties, and other expenses (including legal fees on a full indemnity basis) that may be assessed against the Client.

19. NOTICES



19.1 DELIVERY

Notices under this Agreement must be delivered as follows:

- a) Physical Delivery or Mail: Notices may be left at the address specified in this Agreement for each party or sent by prepaid ordinary post (or airmail if appropriate) to that address.
- b) Email: Notices can be sent by email to the designated email addresses of each party.
- c) Other Methods: Notices may also be given in any other manner permitted by law and agreed upon in writing between the Client and Capital Guard.

If the intended recipient has notified a change of their postal or email address, then all communications must be directed to the new address provided.

19.2 NOTICE EFFECTIVENESS

Notices are considered effective from the time they are received, as outlines in clauses 19.3 to 19.6, unless a later time is specified.

19.3 RECEIPT OF NOTICES – POSTAL DELIVERY

- 1) **Domestic Posting:** If a notice is sent by post, it is deemed to be received **3 days** after it is posted.
- 2) **International Posting:** If a notice is sent to or from a location outside Australia, it is deemed to be received **7 days** after it is posted.

19.4 RECEIPT AND INDEMNITY – EMAIL

a) Email Receipt

- Notices sent via email are considered received when the recipient's email system logs the email message as having been received.

b) Client Instructions via Email

If the Client requests Capital Guard to accept a notice, request, or instruction transmitted by email (referred to as an "email instruction"):

1. Security Compliance:
 - The Client must adhere to any security procedures or measures agreed upon with Capital Guard.
2. Discretionary Acceptance:
 - Capital Guard retains the discretion to accept or reject an email instruction.
3. Reliance on Instructions:
 - If Capital Guard accepts an email instruction that appears to be transmitted or authorized by the Client and complies with the agreed security procedures:

- Capital Guard may rely on that email instruction without further inquiries.
- The email instruction will be deemed effective as the Client's notice, request, or instruction.

4. Availability of Authorised Person:

- After sending an email instruction, the Client must ensure that an Authorised Person is available to discuss the instruction.
- If the Authorised Person is unavailable for discussion and confirmation after reasonable attempts Capital Guard, Capital Guard may, at its absolute discretion, treat the email instruction as invalid.

19.5 RECEIPT BY ELECTRONIC TRANSMISSION SERVICE

Notices sent via an Electronic Transmission Service are considered received when dispatched, provided that at the time of transmission, the correct answerback appears at the start and at the end of the sender's copy of the Notice.

19.6 GENERAL RECEIPT GUIDELINES

Unless explicitly stated otherwise in this Agreement, notices received after 4:00 PM in the place of receipt or on a non-Business Day will be deemed received at 9:00 AM on the next Business Day, regardless of the provisions in clauses 19.3 (Receipt – post), 19.4 (Receipt and indemnity – email), and 19.5 (Receipt by Electronic Transmission Service).

20. GENERAL

20.1 ASSIGNMENT OR RIGHTS AND OBLIGATIONS

A party may not assign its rights or obligations under this Agreement without obtaining prior consent from the other party. This consent must not be unreasonably withheld or delayed.

20.2 WAIVERS

Written Waiver Requirements: Any waiver of a right, power, authority, discretion, or remedy due to a breach or default under this Agreement must be documented in writing and signed by the party granting the waiver.

Non-Waiver of Rights: A failure or delay in exercising, or partial exercise of, any right, power, authority, discretion, or remedy does not constitute a waiver of that right.

Reliance on Delay: A party cannot claim that a delay in exercising a right, power, authority, discretion, or remedy is a waiver of that right.

Defence Against Rights: A party cannot use the conduct of another party as a defense against the



exercise of rights by that other party.

No Waiver of This Clause: This waiver clause itself cannot be waived except in writing.

20.3 VARIATIONS

Capital Guard reserves the right to vary this Agreement at any time, providing Notice to the Client regarding the specific changes made. The Client's continued use of the Services will be interpreted as acceptance of the notified variations.

20.4 CONTINUING INDEMNITIES AND SURVIVAL OF INDEMNITIES

Continuing Obligation

Each indemnity contained in this Agreement is a continuing obligation that remains in full force and effect, even after any settlement of accounts or other occurrences. This obligation persists until all amounts owed under any indemnity have been paid in full.

Independent Obligation

Each indemnity is a separate and independent obligation of the person providing it. No single indemnity limits the generality of any other indemnity, ensuring that all obligations are maintained.

Survival of Indemnities

These indemnities will survive the termination of this Agreement, meaning they continue to be enforceable even after the Agreement ends.

Protection Against Reductions

The indemnities are not subject to any reductions, terminations, or impairments due to circumstances such as set-offs, deductions, counterclaims, agreements, defenses, suspensions, deferments, or any other actions that could otherwise relieve the indemnifying party of its obligations under the law or in equity.

20.5 ENTIRE AGREEMENT

This Agreement:

- a) represents the entire and exclusive understanding between the parties concerning its subject matter; and
- b) replaces and nullifies all previous agreements or understandings, whether oral or written, between the parties regarding the custodianship of the Client's Assets as of the date of this Agreement.

20.6 ATTORNEYS

Each individual signing this Agreement on behalf of a party under a power of attorney affirms that they are unaware of any facts or circumstances that could impact their authority to execute the Agreement under that power of attorney.

20.7 LAW AND JURISDICTION

This Agreement will be interpreted and governed by the laws of New South Wales and the Commonwealth of Australia.

Schedule 1

ADDITIONAL REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS

1. Trustee of a Trust

If you are the trustee of a trust (**Trust**), you represent and warrant to **Capital Guard** that:

- (a) The **Trust** has been duly constituted and is validly existing in compliance with all applicable laws, and the **Trust Deed** has been duly executed and stamped in accordance with the laws of each State and Territory of Australia.
- (b) The **Trust Deed** and its constituent documents enable you to enter into these Terms and any other agreements with **Capital Guard**, despite any conflict of interest and duty which may arise.
- (c) All necessary resolutions have been duly passed, all consents obtained, and all procedural matters attended to as required by the **Trust Deed**, any other document, or any law for the entry into, observance, and performance of obligations under these Terms.
- (d) Each of your obligations under, and the Transactions contemplated by, these Terms constitute **binding obligations** and are lawfully enforceable against you and the **Trust's property** in accordance with their terms.
- (e) **Capital Guard's rights** under these Terms and any other agreements you enter into with **Capital Guard** have priority over the interests of the beneficiaries of the **Trust**.
- (f) You are the **sole trustee** of the **Trust**.
- (g) No **Trust property** has been re-settled, set aside, or transferred to any other trust or settlement.
- (h) The **Trust** has not been terminated, nor has any event for the vesting of the **Trust's property** occurred.
- (i) No determination has been made to distribute the **Trust's property** on a date earlier than the latest permissible date under the **Trust Deed**.
- (j) No action has been taken or proposed to **remove you as trustee** of the **Trust**, or to appoint additional or alternate trustees.
- (k) There is **no conflict of interest** in entering into these Terms and performing your obligations under them.



(l) The **Trust's investment manager** (if applicable) is **authorized to act on your behalf** and to instruct **Capital Guard** in relation to Transactions.

(m) You **authorize the investment manager** to accept notices or documents on your behalf, and **Capital Guard** may serve any required documents or notices upon the investment manager.

(n) You have an **unrestricted right** to be fully indemnified or exonerated out of the **Trust's property** for any losses or liabilities incurred (except in cases of fraud or breach of trustee duties).

(o) You are **authorized** to open bank accounts and enter into contracts related to the **Trust's property**.

2. Responsible Entity of a Fund

If you are the **responsible entity of a fund (Fund)**, you undertake:

(a) **Not to retire as responsible entity** unless:

- The successor responsible entity is **acceptable to Capital Guard**; and
- The successor responsible entity **executes all required documents** to ensure these Terms remain binding.

(b) **To ensure** that, without **Capital Guard's** prior consent:

- The **Fund Constitution** is **not amended** in a way that could materially affect your ability to comply with these Terms.
- The **Fund Constitution** is not revoked.
- If changes to the **Fund Constitution, compliance plan, or custodian agreements** are required by law, you must notify **Capital Guard** and provide copies of the proposed amendments.
- No **re-settlement, setting aside, or transfer** of any **Fund assets** occurs unless permitted by these Terms.
- Your obligations under the **Fund Constitution** and law are fully complied with.

(c) **You represent and warrant that:**

- The **Fund** has been **duly constituted** and complies with all applicable laws.
- The **Fund Constitution** empowers you to **conduct business, enter into these Terms, and perform the Transactions contemplated by these Terms**.
- The **Fund's property** has not been **re-settled, set aside, or transferred** to another trust or settlement.
- You are **the sole responsible entity** of the **Fund**.
- There is **no conflict of interest** in entering into these Terms and performing obligations under them.
- You have an **unrestricted right to be indemnified** out of the **Fund's assets** for liabilities incurred, and the **Fund's assets** are sufficient to satisfy this indemnity.

3. Trustee of a Superannuation Fund

If you are a **trustee of a superannuation fund (Fund)**, you represent and warrant to **Capital Guard** that:

(a) The **Transactions contemplated** under these Terms:

- **Comply with all requirements** of the **Superannuation Industry (Supervision) Act 1993 (SIS Act)**;
- Have been implemented in accordance with an **investment strategy compliant with the SIS Act**;
- **Comply with the Fund Constitution** and applicable rules;
- Are **undertaken on an arm's length basis, for value, and on commercial terms**.

(b) The **Fund** has been **duly constituted** and is **validly existing** under the applicable laws.

(c) The **Fund Constitution** authorizes you to **carry on all business activities, enter into and comply with these Terms, and engage in the Transactions contemplated under these Terms**.

(d) You have complied with all **procedural requirements** for entering into these Terms.

(e) You have an **unrestricted right to be fully indemnified or exonerated** out of the **Fund's assets** for any liabilities incurred in connection with these Terms.

(f) The **Fund's property** has **not been re-settled, set aside, or transferred** to another trust or settlement.

(g) The **Fund has not been terminated**, nor has an event requiring the **vesting of its property** occurred.

(h) There is **no conflict of interest** in entering into these Terms and performing your obligations under them.

(i) You have **complied with all obligations** in connection with the **Fund**.

4. Agent Under an Investment Management Agreement

If you are an **agent** of an **Investor** who has entered into an **Investment Management Agreement**, you undertake:

(a) **Not to amend or terminate the Investment Management Agreement** in a way that could materially impact your ability to comply with these Terms.

(b) **You represent and warrant that:**



- You have received **written acknowledgment** from each **Investor** confirming their agreement to these Terms.
- The **Investment Management Agreement** is **valid and binding**.
- You have the **authority** to enter into Transactions on behalf of the **Investor**.
- The **Investor is bound by instructions provided by you** and by any Transactions entered into on their behalf.

(c) If the **Investor** is a **trustee**, you represent and warrant that:

- The **trust deed and applicable law** empower the **Investor** to **enter into and perform** the Investment Management Agreement.
- The **Investor's obligations** under these Terms are **binding and enforceable** against the trust's property.
- All necessary approvals and resolutions have been obtained.

(d) You **enter into these Terms as an agent** for the **Investor** and in your **personal capacity**.