



**Terms of Use**

**1 December 2020**

# TERMS OF USE

Thank you for your interest in our service. We're pleased that you're considering using our services and have detailed below our usage terms which you need to read, understand and agree to as part of registering and using our service. These terms are legally binding so please take time to review them carefully. If you do not agree to these terms you may not use our services.

These terms were announced on 1 December 2020 and apply from 1 January 2020. Please note, it is expected these terms will be updated from time to time. It is a condition of these terms that you also agree to be bound by any updated terms.

Depending upon what area of our website you access or service you use, different terms will apply to you. There are three sets of terms. Our Investor Centre terms (which are for security holders and their representatives), our Advisor Centre terms (which are for anyone security holders and their representatives give read-only access to), and our Issuer Centre terms (which are for representatives of entities to view, record and manage the registers of securities and instruments issued by the entities). Collectively, these terms are our Terms of Use.

When we say you or your, we mean both you and any entity or firm you're authorised to represent. When we say Registry Direct, we, our or us, we're talking about Registry Direct Limited (ABN 35 160 181 840). When we say our website, system, platform, or service, we mean all the services offered by us.

## INVESTOR CENTRE TERMS

### About the Investor Centre

The Investor Centre allows you to view and update certain details of your holdings of securities where the register of holders of those securities is maintained on the system provided by Registry Direct and the issuer of those securities has permitted holders to view and update security holding details on our system.

### Security of login details

You agree that you are responsible for the security of your login details and that you will keep your login details confidential.

You agree that the login details constitute your signature for the purpose of approving any amendments to your security holder details on our system. You also acknowledge and accept responsibility for the use of your login details whether or not that use has been authorised by you.

### Joint holders

If you are a joint holder of a security, you acknowledge that you have read and understood these terms and have the authority to act on behalf of each joint holder and any action you perform is on behalf of each joint holder. You are deemed to have agreed to these terms on behalf of each joint holder.

### Third party access

You may permission third parties, such as your financial adviser, to have access and make changes to your details. You acknowledge and accept you are responsible for any actions performed by such third parties and their delegates whether or not that action has been authorised by you.

If you are a third party acting on behalf of a holder or joint holders, you acknowledge that you have read and understood these terms and have the authority to act on behalf of the holder or all of the joint holders, respectively, in performing any action or transaction on our system.

### Availability

We strive to maintain the availability of our services. However, occasionally we need to perform maintenance on our services, and this may require a period of downtime. We try to minimise any such downtime.

In addition, you know how the internet works – sometimes you might not be able to access our services and your data. This might happen for any number of reasons, at any time.

You acknowledge and accept you will not be able to access our system from time to time.

### **Communications**

By default, you agree to receive all communications regarding your holding(s), including annual reports, by email to the email address recorded in your registration. If you are an investor in a public company, you may request a copy of the annual report by post.

### **Share certificates and holding statements**

You agree to receive any share certificates and/or holding statements in electronic form.

### **Acknowledgement of no financial advice or offer of securities**

Our system does not contain investment advice and we recommend you consider consulting an independent legal, financial or other adviser to help form your own opinion on any investment decision. You should also consider consulting appropriate professional advisers on any legal, stamp duty, taxation and accounting implications of your investments or any changes you make to your security holder details in this website.

No statement in this Investor Centre constitutes a recommendation, offer or invitation to invest in any investments, securities or financial products of any party.

### **Content and use of our system**

Our system contains a summary of information obtained from various third parties and/or provided by you. Registry Direct makes no representation or warranty as to accuracy or reliability of the information in this website.

In submitting information to this website you agree to the use of that information by Registry Direct in accordance with our Privacy Policy and where necessary, the transfer of the information to the relevant issuer or broker or exchange or to the extent required by law, to any government department or authority.

Our system may contain links to web sites controlled by third parties. Registry Direct does not endorse the content of any third party web sites and disclaims any liability for any information, materials, products or services posted or offered on those web sites.

The information contained in our system is for your personal use and may not be on-sold. You may not distribute any information in our system other than to your professional advisers for the purpose of obtaining advice in relation to your security holdings. You may print or retain electronic copies of information in our system to the extent necessary to maintain your own records.

You must ensure that your access to our system is not illegal or prohibited by laws which apply to you. You must take your own precautions to ensure that the process which you employ for accessing our system does not expose you to the risk of viruses, malicious computer code or other forms of interference which may damage your computer system. Registry Direct does not accept responsibility for any interference or damage to a computer system which arises in connection with your use of this web site or any linked web site.

Unless indicated otherwise, all figures quoted in our system are in Australian dollars.

### **Copyright and Trademarks**

Copyright in this website (including text, graphics, logos, icons, sound recordings and software, other than issuer's trademarks or publications) is owned or licensed by Registry Direct. Other than as expressly provided for in these Terms of Use, you may not in any form or by any means adapt, reproduce, store, distribute, print, display, perform, publish or create derivative works from any part of our system or commercialise any information, products, software or services obtained from any part of our system without our express written permission.

You must not attempt to access the software or hardware supporting our system.

Nothing displayed in our system should be interpreted as granting you any right to use or distribute any names, logos, trademarks or service marks.

### **Privacy Policy**

Nothing in these Terms of Use varies or amends the Privacy Policy available in this website.

### **Security of Information**

Registry Direct does not warrant and cannot ensure the security of any information which you transmit to this website or our system. Any information which you transmit is transmitted at your own risk. Once your transmission is received, the information it contains will be recorded and maintained in accordance with the Privacy Policy.

### **Amendment and Termination**

Registry Direct may, in its sole discretion, amend these Terms of Use from time to time. Amendments will be effective immediately upon their publication in this website. Your use of this website or continuation of your registration with our system following the publication will constitute an agreement by you to be bound by the Terms of Use, as amended.

Your access to our system may be terminated at any time by Registry Direct, or by you. These Terms of Use continue to apply despite termination of your access to this website.

### **Disclaimer and Limitation of Liability**

Our services and all third-party products are made available to you on an "as is" basis only. Except for warranties that cannot be excluded by law, no warranty either express or implied is given by Registry Direct in respect to any service provided by Registry Direct.

To the extent permitted by law, in no event will Registry Direct be liable for any loss or damages, including without limitation direct or indirect, special, incidental or consequential damages, losses or expenses arising in connection with any service we provide or your use of or inability to use our services, including without limitation any errors or omissions in information in our system, any delays or errors in the processing of information you submit to our system or from computer viruses, even if Registry Direct is advised of the possibility of, or could reasonably expect, such damages, losses or expenses.

### **Indemnity**

You indemnify Registry Direct, the issuer of the securities and the registrar of the securities and each of their directors, officers, employees and contractors from any loss or damages including without limitation direct or indirect, special, incidental or consequential damages and legal costs on a full indemnity basis arising from your breach of these Terms of Use.

### **Governing Law**

These Terms of Use are governed by the laws in force in Victoria, Australia and you irrevocably submit to the exclusive jurisdiction of the Courts of Victoria.

Registry Direct includes its related bodies corporate as defined under the Corporations Act 2001.

## **ADVISOR CENTRE TERMS**

### **About the Advisor Centre**

The Advisor Centre allows you to view, perform actions and update certain details of holdings of securities where the register of those securities is maintained on the system provided by Registry Direct.

### **Security of Login Details**

You agree that you are responsible for the security of your login details and that you will keep your login details confidential.

You agree that the login details constitute your signature for the purpose of approving any actions in this website. You also acknowledge and accept responsibility for the use of your login details whether or not that use has been authorised by you.

### **Availability**

We strive to maintain the availability of our services. However, occasionally we need to perform maintenance on our services, and this may require a period of downtime. We try to minimise any such downtime.

In addition, you know how the internet works – sometimes you might not be able to access our services and your data. This might happen for any number of reasons, at any time.

You acknowledge and accept you will not be able to access our system from time to time.

### **Content and use of this website**

This website contains a summary of information obtained from various third parties and/or provided by you. Registry Direct makes no representation or warranty as to accuracy or reliability of the information in this website.

In submitting information to this website you agree to the use of that information by Registry Direct in accordance with the Privacy Policy and where necessary, the transfer of the information to the relevant issuer or broker or to the extent required by law, to any government department or authority.

This website may contain links to web sites controlled by third parties. Registry Direct does not endorse the content of any third party web sites and disclaims any liability for any information, materials, products or services posted or offered on those web sites.

You must ensure that your access to this website is not illegal or prohibited by laws which apply to you. You must take your own precautions to ensure that the process which you employ for accessing this website does not expose you to the risk of viruses, malicious computer code or other forms of interference which may damage your computer system. Registry Direct does not accept responsibility for any interference or damage to a computer system which arises in connection with your use of this web site or any linked web site.

Unless indicated otherwise, all figures quoted in this website are in Australian dollars.

### **Copyright and Trademarks**

Copyright in this website (including text, graphics, logos, icons, sound recordings and software, other than issuer's trademarks or publications) is owned or licensed by Registry Direct. Other than as expressly provided for in these Terms of Use, you may not in any form or by any means adapt, reproduce, store, distribute, print, display, perform, publish or create derivative works from any part of this website or its software or commercialise any information, products, software or services obtained from any part of this website without our express written permission.

You must not attempt to access the software or hardware supporting this website.

Nothing displayed in this website should be interpreted as granting you any right to use or distribute any names, logos, trademarks or service marks.

### **Privacy Policy**

Nothing in these Terms of Use varies or amends the Privacy Policy available in this website.

### **Security of Information**

Registry Direct does not warrant and cannot ensure the security of any information which you transmit to this website. Any information which you transmit is transmitted at your own risk. Once your transmission is received, the information it contains will be recorded and maintained in accordance with our Privacy Policy.

### **Amendment and Termination**

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Your access to this website may be terminated at any time by Registry Direct, or by you. These Terms of Use continue to apply despite termination of your access to this website.

### **Acknowledgement of no financial advice or offer of securities**

This website does not contain investment advice and we recommend you consider consulting an independent legal, financial or other adviser to help form your own opinion on any investment decision. You should also consider consulting appropriate professional advisers on any legal, stamp duty, taxation and accounting implications of your investments or any changes you make to your security holder details in this website.

No statement in this website constitutes a recommendation, offer or invitation to invest in any investments, securities or financial products of any party.

### **Disclaimer and Limitation of Liability**

Our services and all third-party products are made available to you on an "as is" basis only. Except for warranties that cannot be excluded by law, no warranty either express or implied is given by Registry Direct in respect to this website or any service provided in this website.

To the extent permitted by law, in no event will Registry Direct be liable for any loss or damages, including without limitation direct or indirect, special, incidental or consequential damages, losses or expenses arising in connection with this website or your use of or inability to use this website, including without limitation any errors or omissions in information in this website, any delays or errors in the processing of information you submit to this website or from computer viruses, even if Registry Direct is advised of the possibility of, or could reasonably expect, such damages, losses or expenses.

### **Indemnity**

You indemnify Registry Direct and its directors, officers, employees and contractors from any loss or damages including without limitation direct or indirect, special, incidental or consequential damages and legal costs on a full indemnity basis arising from your breach of these Terms of Use.

### **Governing Law**

These Terms of Use are governed by the laws in force in Victoria, Australia and you irrevocably submit to the exclusive jurisdiction of the Courts of Victoria.

Registry Direct includes its related bodies corporate as defined under the Corporations Act 2001

## **ISSUER CENTRE TERMS**

### **About the Issuer Centre**

The Issuer Centre allows authorised parties to view, maintain and manage a register of holders of securities and other instruments issued by an entity recorded on our system (our Client).

## **1. DEFINITIONS**

### **1.1 You and Registry Direct**

When we say you or your, we mean both you and any Client you represent under this Agreement. When we say we, our or us, we're talking about Registry Direct Limited (ABN 35 160 181 840). When we say our website, system, platform, or service, we mean all the services offered by us.

### **1.2 Capitalised words**

Capitalised words in these Terms are defined in clause 26.

## **2. SERVICES**

### **2.1 Right to use the Services**

(a) By using our Services, you agree and warrant that:

- (i) you have read, understood and agreed to these Terms;
- (ii) you have the authority to act on behalf of the Client; and
- (iii) that you will use the Services in accordance with these Terms.

If you do not agree to these Terms, you may not use the Services and must notify us immediately.

(b) Subject to your compliance with these Terms, we grant you the non-exclusive, non-sublicensable, non-transferable and limited right to access and use the Services from time to time during the Term.

### **2.2 Service Availability**

There may be occasions where the Services are unavailable, including due to reasons outside of our control. We will use reasonable endeavours to notify you in advance of any planned outages and will endeavour to remedy any unplanned outages as soon as possible.

### **2.3 Your use of the Services**

By agreeing to these Terms, you acknowledge and agree that we may monitor or suspend your use of the Services where such use is considered fraudulent or outside of the intended application of the Services, causes significant congestion, disruption or otherwise adversely affects the performance or delivery of the Services or adversely affects any person's use of, or access to, the Services.

## **3. PRICING OF THE PLATFORM AND SERVICES**

### **3.1 Primary Contact**

Each Client has a Primary Contact. The Primary Contact is the person named as the primary contact for that Client. If you are the Primary Contact, you agree to subscribe for the Services on behalf of the Client and assume responsibility for fully controlling how the subscription is managed, who can access the Services, and for paying

the Fees for the Services. If you do not agree, you may not be the Primary Contact. If no person agrees to be the Primary Contact for a Client, then the use of the Services for the Client will be terminated immediately.

### **3.2 Fees**

The Fees we charge depend upon the plan you have subscribed for (and as you are deemed to have applied for from time to time) and your use of our Services. The plans we offer and the rates we charge for our plans are available on our Website. The terms of the plans form part of these Terms.

Please note, the plans we offer and/or the rates we charge may change from time to time. We will give at least 30 days' notice prior making any changes. Where a change is made it will apply to the Client. If the change is not acceptable to the Client, their only recourse is to terminate their subscription.

Plans and rates (other than ASIC agent fees) cannot be downgraded.

## **4. PAYMENT**

### **4.1 Method of payment**

- (a) We will issue an invoice to you around the end of each Month for the relevant Fees (**Invoice**). No pro-rata adjustments to the rates will be made for periods of less than one month. An Invoice must be paid as set out on the invoice and in any event within 14 days of the date of the Invoice. All amounts paid to us are non-refundable, non-cancelable and non-creditable. An Invoice may be issued in accordance with the process set out in clause 18.

Fees, including any quoted disbursement fees, may be payable in advance of the provision of the Services as determined by Registry Direct in its absolute discretion.

- (b) Where we have been provided with credit card or direct debit details, the Primary Contact will be deemed to have authorised us to debit from the credit card or bank account (as applicable), the outstanding amount owed under any Invoice during the Term.

### **4.2 Interest on late payment**

We may charge the Client interest on all outstanding amounts due and payable under these Terms at an annualised rate of 2% above the Reserve Bank of Australia Cash Rate Target, compounded daily, and an additional amount for any expenses incurred by us in collecting any overdue amounts (including the cost of engaging a debt recovery agent or a lawyer).

### **4.3 Termination on late payment**

In addition to any other rights we may have under these Terms, if the Client does not pay the Fees owed to us in accordance with these Terms, we may, at our sole discretion, either:

- (a) terminate the Agreement by giving 14 days' written Notice to the Primary Contact; or
- (b) following two business days prior notice, suspend the provision of the Services for as long as any Fees remain outstanding, without being responsible or liable during that period for the Services, including maintaining the integrity of the Register.

### **4.4 GST**

The parties agree that:

- (a) all Fees are exclusive of GST; and
- (b) if the whole or any part of any payment under or in connection with these Terms is the consideration for a taxable supply for which the payee is liable to GST, the payer must pay to the payee an additional amount equal to the amount referable to GST, either concurrently with that payment or as otherwise agreed in writing.

Unless the expressly provided otherwise in these Terms, all terms used in this clause 4.4 have the same meaning



as in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

## **5. RESPONSIBILITY FOR CLIENT DATA**

### **5.1 General**

You must ensure that your use of the Services and handling of Client Data is at all times compliant with all applicable Laws. Each time you provide Client Data to us (including by uploading that data to the Platform), you represent and warrant that:

- (a) you have obtained all necessary rights, releases and permissions to provide the Client Data to us and to grant the rights under these Terms in respect of the Client Data; and
- (b) the Client Data and its transfer to and use by us, as authorised by you under these Terms, do not violate any Laws (including without limitation those relating to export control and electronic communications) or rights of any third party, including without limitation any Intellectual Property Rights, rights of privacy or rights of publicity, and any use, collection and disclosure authorised by the Client under these Terms is not inconsistent with the terms of any privacy policies or privacy laws applicable to the Client Data.

### **5.2 Client Permissions**

By using our Services, you grant permission to us to host, back-up and otherwise deal with Client Data in accordance with these Terms.

### **5.3 Accuracy of information and Services**

You acknowledge and agree that:

- (a) we have no obligation to verify any of the Client Data provided to us in connection with the Services;
- (b) the accuracy, completeness and quality of the Services will be dependent on the accuracy, completeness and quality of the Client Data provided; and
- (c) we will not be liable for any failure of the Services which result in connection with any inaccurate or incomplete Client Data provided to us.

## **6. SECURITY & DATA SERVICES**

### **6.1 Use of third party service providers**

In providing the Services, we may appoint and use third party service providers to assist us in carrying out our obligations under these Terms (for example, hosting and cloud server providers). In engaging such third party service providers, we will ensure that such service providers comply with the Privacy Policy (as amended from time to time) and the confidentiality provisions set out in clause 10 of these Terms.

### **6.2 Security**

The use of the Services necessarily involves transmission of Client Data over networks that are not owned, operated or controlled us. Whilst we will take all reasonable precautions to implement security procedures to help protect Client Data from security attacks, we disclaim all responsibility for any Client Data that is lost, altered, intercepted or stored across such networks. We cannot and do not guarantee that our security procedures will be error-free, or that transmissions of Client Data will be secure or that unauthorised third parties will not be able to defeat our security measures or those of our third party service providers.

### **6.3 Data Storage**

We may retain Client Data for at least seven years following termination of the Agreement or such time frame as required by law. Client Data retained by Registry Direct is stored in Australia only.

### **6.4 Use of third-party applications**

If you enable third-party applications for use in conjunction with the Services, you acknowledge that we may

allow the providers of those third-party applications to access Client Data as required for the interoperation of such third-party applications with the Services. We shall not be responsible for any disclosure, modification or deletion of Client Data resulting from any such access by third-party application providers.

## **7. AUTHORISED SIGNATORIES**

### **7.1 Credentials**

You must ensure that you keep your User Details strictly confidential and not share such information with any unauthorised person. User Details are granted to individual, named persons nominated by an Authorised Signatory with the relevant privileges and may not be shared. The Primary Contact and the Client are responsible for any and all actions taken on the Account.

### **7.2 Authorised Signatories**

You acknowledge that Authorised Signatories are authorised to give directions and instructions to us on behalf of the Client for the purposes of these Terms and to sign on behalf of a Client, all notices, communications, instructions, directions confirmations and other documents required by or contemplated under these Terms.

### **7.3 Registry Direct entitled to rely**

We are entitled to rely on the authenticity of the Notices, signatures or instructions given, or purported to be given, by an Authorised Signatory (including by email or electronically via the Platform) and we will not be liable for any claim, damage, cost, expense, loss liability or demand arising from that reliance.

### **7.4 Date variation takes effect**

Any variation to the list of Authorised Signatories in the Account takes effect on the date on which the list of Authorised Signatories is updated.

## **8. PAYMENTS ON BEHALF OF THE CLIENT**

### **8.1 Receipt of money**

- a) Where the Client and Registry Direct agree in writing that Registry Direct is to hold money paid by:
- (i) the Client on trust for the Client's security holders (or such other third party agreed between Registry Direct and the Client in writing) (for example, dividend payments); and/or
  - (ii) the Client's security holders on trust for the Client pending the issue of securities by the Client to the security holder (for example, application moneys for the issue of securities or under a share purchase plan);

(together, **Trust Funds**), Registry Direct agrees to hold such Trust Funds as bare trustee for the Client in accordance with this clause 8.

- b) The Client acknowledges that Registry Direct will hold Trust Funds in a bank account designated as being held on trust for the Client (**Trust Account**) and will be entitled to all interest earned in respect of the Trust Account from time to time and that such interest does not constitute any payment toward Fees payable by the Client.
- c) The Client must ensure that sufficient cleared funds are available in the Trust Account to allow Registry Direct to make the payments described in clause 8.2. Where sufficient funds are not available, Registry Direct will not make the required payments. The Client acknowledges that Registry Direct will not be liable for any consequences the Client may suffer due to insufficient funds in the Trust Account.

### **8.2 Payments relating to Securities**

- (a) Other than in respect of any interest earned on the Trust Accounts in accordance with clause 8.1 (b), Registry Direct may only make payments from the Trust Account in accordance with a written notice (which may be by email or communicated electronically through the Issuer Centre) provided by an Authorised Signatory which either i) specifies the amount, date and bank account into which each payment is to be made and a description of the purpose of each payment or ii) relies upon amounts calculated by the platform (for example amounts

payable as a result of a dividend). Where the amounts have been calculated by the Platform, the client acknowledges the amounts are calculated and the payees bank accounts determined on a best endeavours basis only, and that Registry Direct will not be liable for any consequences the Client may suffer arising from any error or omission.

- (b) Within 2 Business Days after receipt of a notice in accordance with clause 8.2 (a), and subject to clause 8.1 (c), Registry Direct will make electronic funds transfer payments from the Trust Account in accordance with the directions specified in the notice.
- (c) Where Trust Funds are not transferred in accordance with clause 8.1 (a) for any reason, Registry Direct will continue to hold such Trust Funds until the Trust Funds are transferred in accordance with a valid notice given under clause 8.2 (a).

### **8.3 Client's acknowledgement**

The Client acknowledges and agrees that Registry Direct's compliance with this clause 8 is dependent on the Client's compliance with its obligations under this agreement and that Registry Direct relies solely on the Client's directions when handling any payments under this clause 8. The Client acknowledges that it is the Client's sole responsibility to ensure that any directions given by the Client in respect of Trust Funds are in accordance with the Client's statutory obligations or any other obligations whatsoever arising.

## **9. TERMINATION**

### **9.1 Termination for convenience**

The Primary Contact may terminate this Agreement, without cause, at any time by providing us with written Notice. We may terminate these Terms, without cause, at any time by giving at least 30 days' written Notice to you.

### **9.2 Termination for cause**

- (a) In addition to any other terms of these Terms giving a right of termination, we may terminate these Terms with immediate effect and without further notice to you if:
  - (i) you or any representative of the Client breach a material provision of these Terms and fail to remedy that breach within 14 days after receiving written Notice specifying the breach;
  - (ii) you or any representative of the Client breach a provision of these Terms that is not capable of being remedied; or
  - (iii) the Client is or becomes Insolvent.
- (b) If we terminate these Terms in accordance with clause 9.1 or 9.2(a), you will be able to export the Client Data contained in the Register for a period of three months unless:
  - (i) you or a representative of the Client has breached a material provision of these Terms (including failure to pay your Fees);
  - (ii) doing so would cause us legal liability or compromise our ability to provide the Services and access to the Platform to other clients; or
  - (iii) we are prohibited from doing so by law.

### **9.3 Obligations surviving Termination**

Notwithstanding any other provision of these Terms, the Client will remain liable for any accrued charges and amounts occurred by us, whether or not these amounts were due for payment prior to termination.

## **10. CONFIDENTIALITY**

## **10.1 Confidential Information**

Each party:

- (a) agrees that it will take all reasonable steps to keep and treat as confidential all Confidential Information disclosed to a party (**Receiving Party**) by the other party (**Disclosing Party**) and the Receiving Party acknowledges the Confidential Information is passed to and received by it in the strictest confidence;
- (b) must use the Confidential Information only for the purposes set out in these Terms;
- (c) must not disclose the Confidential Information to any person except as permitted by these Terms;
- (d) must use reasonable endeavours to ensure that any person who has access to Confidential Information does not make any unauthorised use, modification, reproduction or disclosure of that information and acknowledges and agrees that it remains responsible for that person such that any breach of these Terms by this person will be treated as a breach by the Receiving Party;
- (e) must notify the Disclosing Party as soon as practicable after it becomes aware of a breach by it or its representatives of its obligations under this clause 10; and
- (f) must co-operate with the Disclosing Party in any reasonable action which it may take to protect the confidentiality of its Confidential Information.

## **10.2 Permitted Disclosures**

The Receiving Party may disclose Confidential Information otherwise than in relation to the access to the Platform and provision of Services in accordance with these Terms:

- (a) on a need to know basis to any of its representatives or agents (including legal advisers) for the purposes set out in these Terms if the Receiving Party ensures that the representative or agent is made fully aware of the nature and extent of the Confidential Information and the representative or agent agrees to be bound and abide by the applicable terms of these Terms;
- (b) where required by Law, if the Receiving Party provides notice to the Disclosing Party prior to any disclosure to provide the Disclosing Party with the opportunity to address any potential disclosure of its Confidential Information (to the extent permitted under any applicable Law); or
- (c) with the prior written consent of the Disclosing Party.

## **10.3 Return of Confidential Information**

At any time at the reasonable request of the Disclosing Party, the Receiving Party must:

- (a) deliver to the Disclosing Party, or with the Disclosing Party's prior written consent, destroy or delete all documents and media in which any Confidential Information is recorded or from which it may be reproduced (including any copies thereof) and which are in the possession, power, custody or control of the Receiving Party or its representative except to the extent that the Receiving Party is entitled to retain Confidential Information for internal audit and compliance purposes in accordance with its bona fide record keeping policies including references in board papers, minutes and information contained in back up files; and
- (b) certify in writing to the Disclosing Party by an authorised officer, that to the best of its knowledge and after making enquires, there is no longer any Confidential Information in the possession, power, custody or control of the Receiving Party or any representative of the Receiving Party other than Confidential Information retained in accordance with clause 10.3(a).

## **11. INDEMNITY AND LIABILITY**

### **11.1 Indemnity**

By agreeing to these Terms, you and the Client agree to defend, indemnify and hold harmless Registry Direct

from and against any loss, cost, expense, liability or damage, including legal costs, (collectively, **Loss**) for which we become, or may become, liable arising from or relating to your, the Client, a User's or any unauthorised party's use of the Services or the Client Data, including but not limited to any claim brought by a third party alleging that Client Data, or any use of the Services by you, a User, an unauthorised party or a Client in breach of these Terms, infringes or misappropriates the rights or Intellectual Property Rights of a third party or violates applicable Laws, except to the extent that any Loss is caused by our fraudulent conduct or wilful misconduct. You acknowledge and agree that we do not need to incur expenses or make payment before enforcing our right of indemnity under these Terms.

### **11.2 Limitation of liability**

- (a) Despite any other provision of these Terms (excluding any loss that a Client suffers as a result of our fraudulent conduct or wilful misconduct), to the maximum extent permitted by law, we exclude all liability and responsibility to you or any Client (or any other person) in contract, tort (including negligence), or otherwise, for any loss (including loss of Client Data, profits and savings) or damage resulting, directly or indirectly, from the use of, or reliance on, the Services.
- (b) If you or a Client suffers loss or damage arising as a direct result of our negligence or failure to comply with these Terms, our liability will be limited, at our option, to supplying access to the Services again or paying for the cost of having the Services supplied again, and in any case, will not exceed the amount of Fees paid or payable to Registry Direct under these Terms during the previous year immediately prior to the event giving rise to the liability (or pro-rata where the agreement has been in place for less than a year).
- (c) Unless otherwise required by Law, if you are not satisfied with the Services, your sole and exclusive remedy is to terminate this Agreement.
- (d) The limitation of liability described in this clause 11.2 will not apply to any loss that a Client suffers as a result of our fraudulent or wilful misconduct or our being in breach of this Agreement.
- (e) You agree to release us from all claims arising in connection with the Services to the extent that our liability in respect of such claims would exceed our liability as determined under clause 11.2(b).
- (f) You acknowledge that our ability to comply with our obligations under these Terms will depend on your compliance with the respective obligations under these Terms and we will have no responsibility for any failure to provide the Platform or Services to the extent that such failure is caused directly or indirectly by your failure to comply with your obligations under these Terms.
- (g) You acknowledge that we do not provide any services to either you or the Client in the capacity of any professional adviser. Accordingly, we do not accept any responsibility for the accuracy or completeness of any forms, lodgements or notices generated by the Platform. It is your responsibility to obtain the appropriate professional advice in respect of those documents and to the extent that you authorise us to transmit those documents to regulatory bodies or third parties, we do so only as your agent.

### **11.3 No liability to Holders**

You acknowledge and agree that we are not liable in any way to any Holder or any person who holds a lien, charge or any other legal or equitable interest over a Security.

### **11.4 Liability of you**

We acknowledge that any liability of you to us will be limited in respect to the relevant Client in which the liability arises. We agree the commencement of any action for damages or recovery of monies owing to us will be limited to a claim against the assets of the Client in respect of which the damages or claim arises. This clause does not limit our rights of suspension of access to the Platform or the Services to the Applicant as set out in the terms of this Agreement.

This clause 11.4 is conditional upon you being duly authorised to represent the Client in which the liability arises.

## **12. REPRESENTATIONS AND WARRANTIES**

### **12.1 Your Representations and Warranties**

You represent and warrant to us as at the date of your acceptance of these Terms and each time you use the Services, that you:

- (a) have all the power to enter into and perform these Terms and have obtained all necessary consents and corporate authorisations to enable you to do so;
- (b) will only use the Services for a lawful business purpose, and in accordance with these Terms, all applicable Laws, any notice sent by us to you or any condition posted within the Platform or on the Website;
- (c) will comply in a timely, proper and efficient manner with your obligations under these Terms;
- (d) will provide to us, on request, any documents, information, instructions or directions reasonably required by us to enable us to perform our obligations, provide access to the Services or do any other thing in accordance with these Terms or as required by Law; and
- (e) will notify us in writing as soon as practicable after you become aware that the Client has or may become Insolvent.

### **12.2 Warranty Disclaimer**

The Services are provided on an “as is”, “best endeavours” and “as available” basis, and we expressly disclaim any and all warranties and representations of any kind, including any warranty of non-infringement, title, fitness for a particular purpose, functionality, or merchantability, whether express, implied, or statutory. We will not be liable for delays, interruptions, service failures and other problems inherent in the use of the internet and electronic communications or other systems outside of our reasonable control. To the maximum extent permitted by law, we make no representations, warranties or guarantees as to the reliability, timeliness, quality, suitability, truth, availability, accuracy or completeness of the Platform, any Services, Materials or any associated content, or that:

- (a) the use of the Services will be secure, timely, uninterrupted or free of errors or omissions;
- (b) the Services will operate in combination with any other hardware, software, system or data;
- (c) the Services will meet your requirements or expectations;
- (d) any stored Client Data will be accurate or reliable or that any stored Client Data will not be lost or corrupted; or
- (e) errors or defects will be corrected.

## **13. PUBLICITY RIGHTS**

By registering an Account, the Primary Contact authorises us to identify the Client as our client in our promotional materials and warrant that they have the authority to grant us this right. The Primary Contact may request that we stop referring to the Client in our promotional materials by submitting an email to [registry@registrydirect.com.au](mailto:registry@registrydirect.com.au) at any time detailing such request. It may take us up to 30 days to process this request.

## **14. CHANGES TO THIS AGREEMENT**

Registry Direct may update or modify these Terms from time to time, including the Fees and any referenced policies or other documents, with 30 days’ notice.

## **15. COMMUNICATION**

You acknowledge, where an email address is recorded on the Platform for a party, any communication to that party will, by default, be sent electronically (including the distribution of share certificates and holding statements).

Each time you use any communication tools available through the Services, either directly or indirectly (such as through system generated communications), you represent and warrant that:

- (a) such communication is for a legitimate purpose and in accordance with all applicable Laws, including the Privacy Act and the Spam Act; and
- (b) you are authorised by the Client to publish all content comprised in the communication, including in respect of any applicable Intellectual Property Rights.

## **16. PRIVACY**

- (a) You must ensure that your use of the Services, including the provision of Client Data to us, complies with the Privacy Act, Spam Act and all applicable Laws. By agreeing to these Terms and continuing to use the Services, you will be deemed to have accepted the terms of our Privacy Policy (as amended from time to time). The Privacy Policy forms part of these Terms.
- (b) The Client accepts that Registry Direct has no liability under the Privacy Act or the Spam Act in connection with the Client's use of the Services.
- (c) Registry Direct agrees to comply with its obligations under the Privacy Act in respect of the Client Data.

## **17. INTELLECTUAL PROPERTY**

### **17.1 Intellectual Property Rights**

- (a) Registry Direct owns all existing and future Intellectual Property Rights in the Platform, Services, Program Documentation and any Materials. Subject to clause 11.2 we will defend, indemnify, and hold you harmless from and against any claim that your use of the Platform, Services or Materials in accordance with these Terms infringes the Intellectual Property Rights of any third party.
- (b) The Services and your access to the Platform are made available on a limited license basis, and no ownership or other interest is conveyed to you or the Client under these Terms. Registry Direct has and retains all right, title and interest, including all Intellectual Property Rights, in and to the Platform and Services, their "look and feel" and any and all related or underlying technology.
- (c) We agree that we will not acquire any interest in the Client Data, other than under the license granted under clause 17.1(d).
- (d) The Client grants Registry Direct a non-exclusive, non-transferable, sub-licensable, royalty-free, perpetual license to use the Client Data for the sole purpose of performing its obligations under these Terms.
- (e) Nothing in these Terms is intended to grant the Client any Intellectual Property Rights, or any other rights, in or arising from the Materials, including but not limited to any trademarks, business names, logos, know-how, processes or methodologies of Registry Direct.

### **17.2 RESTRICTIONS**

Except as otherwise expressly permitted by these Terms, you will not:

- (a) reproduce, modify, adapt, create derivative works of the Platform or rent, lease, distribute, sell, sublicense, transfer or provide access to the Platform to a third party;
- (b) interfere with any license key mechanism in the Platform or otherwise circumvent mechanisms in the Platform intended to limit use;
- (c) reverse engineer, disassemble, decompile, translate, or otherwise seek to obtain or derive the source code,

underlying ideas, algorithms, file formats or non-public application programming interfaces to any Platform, except as permitted by law;

- (d) undermine the security or integrity of our computing systems or networks or, where the Platform is hosted by a third party, that third party's computing systems or networks;
- (e) use, or misuse, the Platform or the Services in any way which may impair the functionality of the Platform, or impair the ability of any other user to use the Services or the Platform;
- (f) transmit, or input into the Platform, any files that may damage any other person's computing devices or software or any content that may be offensive;
- (g) remove or obscure any proprietary or other notices contained in the Platform; or
- (h) publicly disseminate information regarding the performance of the Platform.

## **18. NOTICES**

- (a) Any Notice to be given to us under these Terms must be:
  - (i) sent by an Authorised Signatory by email to [registry@registrydirect.com.au](mailto:registry@registrydirect.com.au), including 'Urgent' in the subject line, and addressed to the attention of **Chief of Operations**; or
  - (ii) in writing and signed by an Authorised Signatory or officer of the Applicant, and addressed or delivered to Registry Direct's postal address by prepaid post.
- (b) Any Notice to be given by us under these Terms may be:
  - (i) sent by email to the email address listed for any Authorised Signatory of your Account;
  - (ii) posted on our Website or within the Platform; or
  - (iii) addressed or delivered to your postal address by prepaid post.
- (c) Any Notice given under this clause 18 is taken to be given and made:
  - (i) in the case of delivery by post, three Business Days after the date of posting (if posted to an address in the same country) or seven Business Days after the date of posting (if posted to an address in another country);
  - (ii) in the case of an email, on the day and at the time that the sender receives a delivery confirmation report (or similar) confirming that the email was delivered to the specified address; and
  - (iii) In the case of posting to our Website or within the Platform, on the day the notice is posted.

## **19. SEVERABILITY**

If a word or provision in these Terms:

- (a) is or becomes void, voidable, illegal or unenforceable in its terms; and
- (b) would not be void, voidable or unenforceable if:
  - (i) where the word or provision is capable of being read down, it were read down; or
  - (ii) some words were omitted,

then those words are severed and that provision will be read down accordingly (as applicable) and the rest of the Agreement will continue in full force and effect.

## **20. CUMULATIVE RIGHTS**



The rights and remedies in these Terms are in addition to other rights and remedies given by Law independently of these Terms.

## **21. GOVERNING LAW**

This agreement is governed by and must be construed in accordance with the laws of Victoria. The parties submit to the non-exclusive jurisdiction of the courts of Victoria and any courts that may hear appeals from those courts in respect of any proceedings in connection with these Terms.

## **22. ENTIRE AGREEMENT**

The agreement constitutes the entire agreement between the parties and supersedes any prior negotiations, representations, understandings or arrangements made between the parties regarding the subject matter of these Terms, whether orally or in writing (except where a written agreement exists that has been duly signed by both the Client and Registry Direct that expressly states that Registry Direct will act as the registrar for the Client and is titled a "Registry Service Agreement", or an agreement duly signed by the Client and Registry Direct and dated after 20 July 2020 that expressly says it overwrites these Terms or part thereof, then in either case that agreement will overwrite these Terms).

## **23. RELATIONSHIP BETWEEN THE PARTIES**

Except as expressly provided, nothing in these Terms constitutes a partnership between the parties or makes a party an agent of the other party for any purpose and a party cannot in any way or for any purpose bind the other party or contract in the name of the other party.

## **24. ASSIGNMENT**

The Client may not assign, transfer or in any other manner deal with its rights under these Terms without Registry Direct's prior written consent (which may be withheld at Registry Direct's absolute discretion). We may at any time assign, transfer or in any other manner deal with our rights under these Terms without your consent.

## **25. ASIC AGENT SERVICE**

- (a) The ASIC agent service is only available to a Client that ASIC has recorded Registry Direct as the ASIC agent for the Client.
- (b) The ASIC agent service is limited to sending notification of annual returns as required by ASIC and for preparation and lodgement of ASIC forms as they relate to changes in share ownership only.
- (c) Registry Direct may, as requested by a Client, prepare and lodge other forms required by ASIC. Registry Direct will be entitled to receive a fee billed at the hourly rate specified in the Client's pricing plan for any work not included in clause 25(b).
- (d) Clients will be solely responsible for paying any ASIC fees associated with the lodgement or late lodgement of any forms. In no circumstances will Registry Direct be liable for any ASIC fees or other expenses occurred by or on behalf of any Client.

## **26. DEFINITIONS AND INTERPRETATION**

### **26.1 Definitions**

In these Terms, the following words and phrases have the meanings as set out below unless a contrary intention appears:

**'Account'** means the online account within the Platform through which you can establish and maintain Registers and use the Services;

**'Agreement'** means the Terms, as amended from time to time, together with any other terms and conditions notified to you from time to time;

**'Applicant'** means the party which accepts these Terms;

**'Authorised Signatory'** means a person (other than a representative of Registry Direct) who is a User with 'Super admin' or 'Admin' level privileges on behalf of any Client from time to time;

**'Authority'** includes any government or semi-government, statutory, public or other authority or body having jurisdiction over the Client or any matter or thing in relation to it;

**'Business Day'** means a day other than a Saturday or Sunday on which banks are open for business generally in Melbourne, Victoria;

**'Client'** means an entity in which Securities are recorded on a Register established under these Terms;

**'Client Data'** means data and information provided to Registry Direct by, or on behalf of, the Client in connection with the provision of the Platform and Services.;

**'Confidential Information'** means:

- (a) confidential information of any kind, including, without limitation, all written communications and the databases, computer programs, screen formats, screen designs, report formats, interactive design techniques, and other related information furnished to a party by the other party, for the purposes of these Terms and the Agreement;
- (b) does not include information that has been independently created by a party or that has already come into the public domain for any reason other than by virtue of a breach by a party of any obligation of confidentiality imposed in relation to the information; and
- (c) in respect of a Client, includes Client Data and Holder information but does not include Client Data and Holder information that has already come into the public domain for any reason other than by virtue of a breach by Registry Direct of any obligation of confidentiality imposed in relation to the information;

**'Constitution'** means the constituent documents of the Client;

**'Controller'** has the same meaning as the definition of this term in the Corporations Act;

**'Corporations Act'** means the *Corporations Act 2001* (Cth) as amended from time to time.

**'Disclosing Party'** has the same meaning given in clause 10.1 of these Terms.

**'Fees'** means the fees for the Services. The fees are the applicable amount based upon the plan used, the services used and any disbursements.

**'GST'** means goods and services tax which is or may be levied or become payable in connection with the supply of goods and services under *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other legislation.

**'Holder'** means a person or, as the case may be, persons in whose name Securities are, were or will be inscribed in the Register and **'Holding'** has a corresponding meaning.

**'Insolvent'** in respect of a party means any of the following applying to that party:

- (a) it is (or states that it is) an "insolvent under administration" or "insolvent" (each as defined in the Corporations Act);
- (b) it has a Controller appointed, or is in receivership, in receivership and management, in liquidation, in provisional liquidation, under administration or wound up or has had a receiver appointed to any part of its property;
- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute, or dissolved (other than to carry out a reconstruction or amalgamation while solvent);
- (d) an application or order has been made (and, in the case of an application, it is not stayed, withdrawn or

dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that party, which is preparatory to or could result in any of (a), (b) or (c) above;

- (e) it is taken (under section 459F(i) of the Corporations Act) to have failed to comply with a statutory demand;
- (f) it is the subject of an event described in section 459C(2)(b) or section 585 of the Corporations Act (or it makes a statement from which the other party reasonably deduces it is so subject); or
- (g) it is otherwise unable to pay its debts when they fall due;

**'Intellectual Property Rights'** means any registered or unregistered, current or future copyright, trade or service mark, design, patent, trade, business or company name, software or computer program or source code, or other proprietary right, or any right to registration of such rights, both in Australia and throughout the world;

**'Law'** means any applicable statute, regulation, by-law, ordinance, policy or subordinate legislation in force from time to time in Australia, whether made by a State, Territory, the Commonwealth or a local government, and includes the common law and equity as applicable from time to time, including, but not limited, the Corporations Act and all relevant Australian legal and regulatory requirements, including, without limitation, the *Corporations Regulations 2001* (Cth), as applicable and as amended from time to time;

**'Loss'** has the meaning given in clause 11.1 of these Terms;

**'Maximum Number of Holders'** means the highest aggregate number of Holders in a Client, across all Registers relating to that Client;

**'Materials'** means the materials, information, and technology of any nature created by Registry Direct in connection with the provision of the Platform and Services, including but not limited to documentation and software;

**'Notice'** means any notice given under or in connection with these Terms;

**'Platform'** means the online securities registry software accessible via the Website;

**'Primary Contact'** means the person named as the primary contact for the Client;

**'Privacy Act'** means the *Privacy Act 1988* (Cth) and any other applicable privacy legislation, as amended from time to time;

**'Privacy Policy'** means our Privacy Policy available at [www.registrydirect.com.au/privacy-policy/](http://www.registrydirect.com.au/privacy-policy/) as amended from time to time in our sole discretion;

**'Program Documentation'** means, in relation to the Programs, all written information, flow charts, manuals, loading diagrams, listings, drawings, source codes, object codes, drawings and other documents or material contained, reproduced or otherwise incorporated, including any copies, duplicates, extracts or reproductions of such information, charts, manuals, diagrams, listing codes, documents or material forms;

**'Programs'** means computer programs used by Registry Direct for the supply of the Services;

**'Receiving Party'** has the same meaning given in clause 10.1 of these Terms;

**'Register'** means the register and index of Holders of the Client established and maintained via the Services;

**'Registry Direct'** means Registry Direct Limited ACN 160 181 840;

**'Security'** means a security (as defined in the Corporations Act) issued by the Client which may include, without limitation, a share or unit, an option or right over a share or unit;

**'Services'** means all the services, systems, websites, technical support, operational support, and capabilities provided by Registry Direct;

**'Spam Act'** means the *Spam Act 2003* (Cth) as amended from time to time;

**'Term'** means the period commencing on the date on which you agree to these Terms and expiring upon termination of this Agreement in accordance with these Terms;

**'Terms'** means these terms and conditions, as amended or superseded from time to time in Registry Direct's sole discretion with 30 days' notice;

**'User'** means a person who is granted access to use the Platform and Services for, or on behalf of, a Client;

**'User Details'** means a User's login details and password to access your Account;

**'Website'** means the website available at [www.registrydirect.com.au](http://www.registrydirect.com.au).

## **26.2 Interpretation**

In these Terms unless the context otherwise requires:

- (a) Headings have been inserted only for convenience and do not affect the interpretation of these Terms;
- (b) A reference to any document includes a reference to that document's attachments and schedules, as amended from time to time;
- (c) A reference to a statute, ordinance, code or other law includes reference to the corresponding regulations, instruments, class orders and policy statements in all instances as amended, consolidated, re-enacted, replaced or re-written;
- (d) A reference to the parties, where relevant, includes their respective successors or permitted assigns;
- (e) The singular includes the plural and vice-versa;
- (f) Words and expressions importing one gender include all other genders;
- (g) 'Include' and any variation of it means including without limitation and does not exclude a reference to other items, whether of the same class or genus or not;
- (h) 'Month' and any variation of it means a calendar month (whether or not beginning on the first day of the month);
- (i) 'Person' includes a natural person, a firm, a body corporate, an unincorporated association or an Authority and vice versa;
- (j) 'Dollars' or any reference to '\$' in these Terms means Australian dollars unless otherwise expressly stated;
- (k) Where a word or phrase is given a defined meaning in these Terms, any other part of speech or grammatical form in respect of such word or phrase has a corresponding meaning; and
- (l) If under these Terms the day on or by which any act, matter or thing is required to be done is a day other than a Business Day, such act, matter or thing must be done on the next succeeding Business Day.

