

## TERMS AND CONDITIONS FOR AUSTRALIAN FINANCIAL SERVICE LICENSE HOLDERS

### No Fee

#### About this agreement

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- 1.1 This agreement sets out the terms and conditions, which govern your use of the InvestmentLink Services.
- 1.2 **"We"**, **"us"** and **"our"** means InvestmentLink Pty Limited (ABN 65 062 979 631) of 17-19 Bridge Street, Sydney NSW 2000.
- 1.3 **"You"** and **"your"** means the Australian Financial Services License licensee (**"Applicant"**) specified on the Application Form for Australian Financial Service License Holders (**"Application Form"**) for the Services.
- 1.4 This agreement begins on the date specified on the Application Form.
- 1.5 Headings are inserted for convenience and do not affect the interpretation of this agreement.

#### 2 What we must do

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- 2.1 We will:
  - (a) make the Services available to you;
  - (b) provide the Services to you in accordance with the Service Levels; and
  - (c) use all reasonable endeavours to ensure that the Information we provide to you is accurate, complete, up-to-date and free from errors.

#### 3 What you must do

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- 3.1 You must acquire and maintain, at your cost, all the equipment, software and internet services that you need to use the Services.
- 3.2 You must keep your login details secret and not store them in any form, whether coded or un-coded, in a location where it is capable of being read by anybody except you.

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#### **4 What you must not do**

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- 4.1 You must not:
- (a) use the Information other than in conjunction with the Services.
  - (b) resell, provide, give access or otherwise disclose the Information, Intellectual Property or the Services to third parties other than your clients in the normal course of providing investment advice; or
  - (c) make (or ask us to make) any Information available to any person that is not authorised to access it.
- 4.2 You must not use or permit the Services or Information to be used, to break the law or any mandatory codes of conduct, which apply to it.

#### **5 Liability under this agreement**

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- 5.1 Subject to clause 5.2:
- (a) except for the express warranties set out in this agreement, we exclude all warranties and implied terms whether statutory or otherwise, relating to the subject matter of this agreement;
  - (b) our liability for loss or damage of any kind however caused, in contract, tort, under any statute or otherwise (excluding negligence, fraud and misuse of confidential information) arising from or in any way connected to this agreement is limited in aggregate for any and all claims to \$1,000.
- 5.2 If the law implies a term into this agreement which is not excluded or limited by clause 6.1, then our liability for breach of such term will be, if permitted by law, limited to one of the following remedies (at our option):
- (a) if the breach relates to services, the resupply of, or cost of resupplying, those services; and
  - (b) if the breach relates to goods, the replacement or repair (or payment of the cost of replacing or repairing) of the goods, or the payment of the cost of acquiring equivalent goods.

#### **6 Our Warranties**

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- 6.1 We warrant that:
- (a) the Services will be provided with due care and skill;
  - (b) in providing the Services, neither us nor any of our Personnel will:
  - (c) Infringe any applicable laws and regulations including, without limitation, any privacy or data protection laws in force from time to time and we indemnify you against all liabilities, expenses, losses, costs and damages that you may sustain or incur as a result, directly or indirectly of any breach of our warranty under this clause 6.1(c); or
  - (d) Intentionally introduce any Virus into your systems.

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#### 7 Ending this agreement

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- 7.1 After the expiration of the Initial Term, you may terminate this agreement at any time by giving us 60 calendar days notice.
- 7.2 If the account between InvestmentLink and your software provider is more than 60 days in arrears
- 7.3 We may terminate this agreement at any time by giving you 180 calendar days notice.
- 7.4 You and we may each terminate this agreement by notice if the other party breaches a material term or condition of this agreement and fails to rectify it within 21 calendar days of receiving a notice asking it to do so.
- 7.5 We and you may terminate this agreement or any part of it at any time with immediate effect on the giving of notice to the other party if the other party has entered into any form of insolvency, liquidation or external administration, whether voluntary or involuntary, formal or otherwise.
- 7.6 The termination of this agreement does not affect the provisions relating to disclosure of information, indemnity or limitations of liability.

#### 8 Privacy

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- 8.1 In this clause:

“**Act**” means the Privacy Act 1988 (Cth)

“**Privacy Law**” means:

- (a) the Act; and
- (b) the National Privacy Principles contained in Schedule 3 to the Act or any approved privacy code (as defined in the Act) that applies to you, us or both; and
- (c) any other statute, regulation or law in Australia or elsewhere which relates to the protection of Personal Information and which you or us must observe.

“**Personal Information**” means all information about a person who is a client of yours that is 'personal information' as defined in the Act, which is collected or held by us in connection with this agreement.

- 8.2 We must:

- (a) observe the Privacy Law in respect of all Personal Information;
- (b) ensure that only authorised personnel have access to Personal Information and all relevant personnel are properly trained to meet the requirements of this clause;
- (c) provide reasonable assistance to you to enable you to resolve any inquiry or complaint relating to Personal Information; and
- (d) Immediately notify you if:
  - (i) we know of or suspect unauthorised use, copying or disclosure of Personal Information;
  - (ii) we become aware that a disclosure of that Personal Information may be required by law.

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#### 9 General conditions

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- 9.1 We may change these terms and conditions at any time by notifying you in writing with at least 90 days prior notice to the date of the change taking effect ("**Change Date**"). If you use the Services after the Change Date, then you will be taken to have agreed to our changes.
- 9.2 If we change these terms and conditions, then you may terminate this agreement without penalty by notifying us prior to the Change Date.
- 9.3 You must not assign or subcontract any rights or obligations under this agreement without our prior written consent, which may not be unreasonably withheld or delayed.
- 9.4 This agreement is governed by the law in force in the State of New South Wales, and you agree to submit to the non-exclusive jurisdiction of the courts of New South Wales for any dispute concerning this agreement.
- 9.5 This agreement constitutes the entire agreement between you and us in relation to the Services.
- 9.6 All notices, consents and approvals under this agreement must be in writing and be delivered by hand or sent by mail or facsimile as set out below.

**InvestmentLink**

Attention: General Manager  
17-19 Bridge Street  
Sydney NSW 2000  
Facsimile: 02-8011 1934

**Applicant (you)**

As set out in the Application Form.

- 9.7 A notice is taken to have been given upon delivery (if by hand), if sent by mail, 5 days after the date of posting within Australia (7 days if posted from outside Australia) or if sent by facsimile, on the date of the entry made in the transmission log kept by the facsimile machine from which it was sent which indicates that it was sent to the recipient in full.

#### 10 Definitions

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- 10.1 Unless the context requires otherwise the following words will have the following meanings in this agreement:

"**Adviser**" means a holder of a proper authority of the Licensee or an advice giving employee of the Licensee;

"**Business Days**" means Monday to Friday excluding public holidays in New South Wales;

"**Business Hours**" means 8am to 6pm during Business Days;

"**Client Holding**" means a data record corresponding to an investment held within the registry of a product provider defined as the unique combination of APIR Product Code and Client Account Number;

"**Confidential Information**" means all information that a party receives or acquires relating to the business, financial affairs, clients or products of the other party under this agreement and includes without limitation all such information received or acquired during the negotiations preceding this agreement;

"**Equipment**" means the equipment, software and services that you need in order to use the Information Services as specified in Schedule A;

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“**ILAN**” means InvestmentLink Adviser Number and is a unique number provided by product providers to InvestmentLink with all adviser names for a specific Licensee held in their registry systems. The adviser names held in the product providers registry systems originates from the paper investment application form placed with the product provider.

“**Information**” means any of the information provided by the Services;

“**Information Services**” means the information services specified in Schedule A;

“**Initial Term**” means the period of 6 months commencing from the date of execution of this agreement;

“**Intellectual Property**” means the systems, software, codes, database structures, procedures, documentation and methodologies used to provide the Information Services and also includes the Information in circumstances where the Information could be used by another party to provide any part of the Information Services;

“**Licensee**” means a person who holds an Australian Financial Services License as defined in s761A of the Corporations Act;

“**Personnel**” means in relation to a party, its officers, employees, agents, sub-contractors and representatives;

“**Services**” means the services defined in Schedule A;

“**Service Levels**” means the Service Level Standard defined for each of the Services described in Schedule A;

“**Virus**” means any virus, trojan horse, disabling or malicious computer code or any other computer code, which would have the effect of adversely affecting access to the Information Services.

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**11 EXECUTED AS AN AGREEMENT**

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This constitutes the agreement between Licensee and InvestmentLink.

**Licensee:**

Company Name: \_\_\_\_\_

License Number: \_\_\_\_\_ ABN: \_\_\_\_\_

Street Address: \_\_\_\_\_

City / State: \_\_\_\_\_ Postcode: \_\_\_\_\_

On this \_\_\_\_ day of \_\_\_\_\_, 2015

Executed for and on behalf of )  
**INVESTMENTLINK PTY LIMITED** by its )  
authorised representative in the presence of: )  
)

.....  
Signature of Witness

.....  
Signature of Licensee

.....  
Name of Business  
(Block letters)

.....  
Name of signatory (block letters)

.....  
Position held by signatory

Executed for and on behalf of )  
 )  
 )  
..... )  
by its authorised representative in the )  
presence of: )  
 )

.....  
Signature of Witness

.....  
Signature of Licensee

.....  
Name of Business  
(Block letters)

.....  
Name of signatory (block letters)

.....  
Position held by signatory

By executing this agreement, the signatory warrants that the signatory is duly authorised to execute it on behalf of **Licensee**.

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#### SCHEDULE A SERVICES and SERVICE OPTIONS

##### 1. e-Portfolio Consolidation Service

The e-Portfolio Consolidation Service is an information aggregation service which consolidates Client Holdings information into a central database for all investor client accounts which are registered to the licensee ("Registered Holdings") and which are available on the e-Portfolio web-based browser service ("e-Portfolio Site") which is found at <http://www.e-portfolio.com.au> which provides:

- (a) Unit prices on those investment products which are registered on the e-Portfolio Consolidation Service ("Consolidation Products"); and
- (b) Client portfolio information for Registered Holdings which includes the current unit balance and may include the full transaction history and the client name and address information held by the product provider for that Registered Holding; and
- (c) The ability to view and download the Registered Holdings; and
- (d) The ability to view and download summary reports on the Registered Holdings ("Management Reports").

##### 2. Support Services:

- (a) Telephone Support

Telephone support will be available to your technical staff during Business Hours for support of the Information Services.

##### 3. Service Levels:

- (a) Data Download

Holding Data is updated periodically based upon data supplied by the product provider, which is then consolidated nightly into investor portfolios and grouped into data files for download the following morning by users who have chosen this service level option.

**Service Level Standard:** Data files are normally available by 9am between Tuesday (containing Monday's updates) to Saturday (containing Friday's updates).

- (b) Data Quality

InvestmentLink has stringent data quality standards and methodologies for checking that Registered Holdings information is accurate and up-to-date, however the quality of data is ultimately based on the quality of data provided by the source data providers. In most cases, we are able to measure data quality on a weekly basis by matching the Registered Holdings held by InvestmentLink with a reconciliation file provided by the respective providers of the Registered Holdings.

**Service Level Standard:** Where a provider is able to provide a weekly reconciliation file, then not more than 1% of Registered Holdings will differ by holding balance from the information held by the source product provider for more than 5 days.

- (c) e-Portfolio Site Availability

The e-Portfolio Site is normally available for use 24 hours per day but may occasionally be unavailable due to maintenance requirements, system failure or other unforeseen emergency situations. Planned maintenance will always be performed outside Business Hours.

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**Service Level Standard:** The e-Portfolio Site will be available for more than 98% of Business Hours each month.