

## TERMS OF BUSINESS FOR SUBSCRIPTION SERVICES

### 1. INTRODUCTION

- 1.1 These terms (Terms) govern your access to and use of the Software and Services. These Terms apply to you at the time you first install, use, access, display or load a copy of the Software or otherwise access the Services. You acknowledge and agree that you have read and understood these Terms prior to installing the Software and accessing the Services.
- 1.2 These Terms relate to trading subscription services only as outlined in clause 2 below and the definition of Services.
- 1.3 A glossary of words and expressions used in these Terms is set out following these Terms.

### 2. SERVICES

- 2.1 This clause 2 contains provisions which, in addition to the other Terms, govern your use of the Software and Services we provide. You also agree to be bound by any terms and conditions of access and use which we may specify and notify to you from time to time.
- 2.2 We will provide you with the Software and access to the Services upon your acceptance of these Terms.
- 2.3 We grant you a non-exclusive and non-transferable licence to use the Software and Derived Information in accordance with these Terms solely for the Permitted Purpose.
- 2.4 You agree that access to the Services is subscription based and that your access to the Services is conditional on payment of any subscriptions due.
- 2.5 You agree not to use the Software or Derived Information for any other purpose and must not copy, use, modify, adapt or translate the Software or Derived Information except as necessary for back up, archival, disaster recovery and testing in connection with the Permitted Purpose, and must not prepare derivative works from, decompile, reverse engineer, disassemble or otherwise attempt to derive source code or any internal data file generated by the Software. For the purposes of clarity, the license granted does not include a right to Deep Hyperlink to any portion of the Services, Software or Derived Information.

### 3. YOUR ACKNOWLEDGMENTS

- 3.1 You acknowledge that:
  - (a) You may Run one copy of the Software on a single computer or other access device at any time.
  - (b) We may from time to time, issue new versions or upgrades of the Software, which may involve changes to the basis on which the Services or Derived Information may be accessed and used. If we offer you the right to use a new version or upgrade of the Software, you must either:
    - (i) Accept the new version or upgrade of the Software, in which case you must use it in accordance with the Terms in substitution of the previous version of the Software; or
    - (ii) Terminate this Agreement by giving us written notice in accordance with Clause 13.
  - (c) There are restrictions on the use of the Services, the Software and the Derived Information, and you agree you will not:
    - (i) restrict or inhibit any other user from using the Services, the Software or any Derived Information;
    - (ii) post or transmit during access to the Services, the Software or any Derived Information any unlawful, threatening, abusive, defamatory, obscene, vulgar, pornographic, profane or indecent information of any kind, including, without limitation, any act which may constitute or encourage anyone to commit a criminal offence, or which may give rise to civil liability or may otherwise violate any law;
    - (iii) post or transmit during access to the Services, the Software or any Derived Information anything which contains, or may contain a virus or other contaminating or destructive property to the Software or Services;
    - (iv) delete or amend any statement or other information on the Services, the Software or any Derived Information or tamper with the Services, the Software or any Derived Information or attempt to do so;

- (v) give the unique access code to any other person, or allow any other person to access the Services, the Software or any Derived Information using your access details without our express written permission; or
    - (vi) copy or modify any of the documentation accompanying the Software in any manner not expressly authorised by the Terms.
  - (d) The Services include the provision of data ("Third Party Data") sourced from third party data providers ("Data Providers"), which provision is subject to conditions which we or the Data Provider notifies to you or which we place on our website from time to time. You agree to comply with all such conditions regarding Third Party Data. You acknowledge that the provision by us of Third Party Data is subject to the agreement of those Data Providers and subject to change without notice. We will endeavour to notify you as soon as reasonably practicable if we are no longer able to provide agreed Third Party Data in accordance with these Terms.
- 3.2 We may suspend, terminate or impose conditions on the use by you of the Services at any time without notice to you.

#### **4. TERM**

- 4.1 Our agreement commences when you accept the Terms, upon which we will commence providing the Services.
- 4.2 The agreement continues in force until either one of us terminates the Agreement in accordance with Clause 13.
- 4.3 If you breach the Terms or are (or state that you are) an insolvent under administration or insolvent (each as defined in the Corporations Act 2001 (Cth)) we may, in our sole discretion, immediately suspend or terminate the Services.

#### **5. FEES**

- 5.1 You authorise us to provide access to the Services to you and you agree to pay all related fees by the due date. All fees relevant to the Services are at [www.tradeforgood.com.au](http://www.tradeforgood.com.au).
- 5.2 We will debit your nominated cash management account before the end of the calendar for the following months data subscription fee, where authorised by you, direct debit the fees accordingly.
- 5.3 We may terminate, suspend or more your access you to the free version of software, provision of the Services at our discretion and without notice to you where:
  - (a) you do not pay the data subscription fee by the due date; or
  - (b) there are insufficient funds in your account at the date the direct debit is due.
- 5.4 You acknowledge that we are under no obligation to refund all or any part of the fees, or costs associated with any fees, which you have paid to us for access to the Services, including any payments made in advance.
- 5.5 If you have been referred to us by a third party, that third party may receive benefits in the form of a commission or rebate from us.
- 5.6 Unless otherwise agreed, all amounts payable by you under these Terms are inclusive of GST.

#### **6. OWNERSHIP OF INTELLECTUAL PROPERTY IN THE SERVICES**

- 6.1 You acknowledge that, as between you and us, ownership of copyright and all other Intellectual Property Rights in the Services, any Data or any Software and Equipment, remains vested in us and you agree to hereby assign to us any Intellectual Property Rights in the Services, any Data or any Software which may vest in you. You are granted no rights in respect of the Services, Software or Equipment except as expressly stated in this Agreement. You must not reproduce or retransmit the Services or any part of them (including any data incorporated into the Services) except to use the Services in accordance with these Terms.

## 7. **PRIVACY AND INFORMATION**

- 7.1 We may collect your personal information from you when we provide services to you under these Terms. We may use any information we collect from you, or such other relevant documents, to:
- (a) assess your request for us to provide our services to you;
  - (b) provide our services to you in accordance with these Terms; and
  - (c) comply with legislative and regulatory requirements including the Privacy Act 1988 (Cth).
- 7.2 You must notify us when any of the information provided by you changes.
- 7.3 We may disclose personal information to:
- (a) our related bodies corporate, whether in Australia or overseas;
  - (b) our service providers (including, but not limited to Data Providers, marketing companies, data consultants and IT contractors);
  - (c) our agents, contractors, service providers and external advisers; and
  - (d) government and other regulatory bodies and authorities whether in Australia or overseas;
- 7.4 You have a right to access any personal information that we hold about you. Sometimes there may be a reason why access will not be possible. If that is the case, you will be told why. To find out what kinds of personal information we may hold about you, or to request access to any personal information, please contact us.
- 7.5 You agree that your personal information can be used or disclosed by us as contemplated in these Terms. You understand that if you do not provide any information requested by us or do not agree to us using your information as set out in this clause 4, we may not be able to provide our services to you.

## 8. **YOUR CAPACITY, REPRESENTATIONS AND WARRANTIES**

- 8.1 We provide services under these Terms on the basis that you undertake as primary obligor all obligations arising in relation to the subscription services.
- 8.2 When you apply for the Service or otherwise instruct us, you represent and warrant to us, that you are:
- a) acting as principal;
  - b) acting as an intermediary on another's behalf and you are specifically authorised to enter into Transactions on behalf of the other person and (if required) currently have all appropriate Australian financial services licence authorisations to do so ; or
  - c) acting in accordance with the terms of a trust deed (if you are a trustee of a trust).
- 8.3 If you are constituted by more than one person (including, for example, if you are a partnership or joint venture), then each person constituting you is jointly and severally liable for the obligations under these Terms, and we may act on the instructions of any one of those persons.
- 8.4 If you are a corporation, you represent and warrant that:
- a) you hold a valid ACN, ABN or ARBN (as applicable) under the Corporations Act;
  - b) you have full corporate power to enter into, and perform your obligations under, these Terms; and
  - c) you have taken all necessary corporate action to authorise the performance of your obligations under these Terms, and these Terms constitute the legal, valid and binding obligations, enforceable against you.
- 8.5 If you are acting as trustee of a trust or superannuation fund, you represent and warrant that you have the appropriate authority to do so and are bound by these Terms as trustee of the trust or superannuation fund, and agree that you are liable under these Terms both in your capacity as a trustee and in your personal capacity.
- 8.6 You represent and warrant that all information provided to us by you or on your behalf at any time is true, accurate, complete and not misleading or deceptive.
- 8.7 The representations and warranties contained in these Terms are correct as at the date of your application to open a subscription account and will continue to be correct at all times until these Terms are terminated.

## 9. DISCLAIMER

- 9.1 Except as required by law, we make no representations or warranties express or implied with respect to the Services, the Software or the Derived Information, including without limitation, as to:
- a) Non-infringement of third Party rights, merchantability, fitness for any particular purpose or use, accuracy or completeness in respect of the Derived Information, except as expressly set out in these Terms;
  - b) The reliability, quality or availability of the Services, Software or the Derived Information through the Internet;
  - c) The absence of viruses or other contaminating or destructive properties in the Software;
  - d) Any references in the Services to a website operated by a third party, access to or the contents of the website, or any hyperlink to gain access to the website.
- 9.2 You acknowledge and agree that:
- a) Neither we or our related entities and Affiliates will be held responsible to you for any use, or the results of any use, of the Services, Software or Derived Information.
  - b) The internet and telecommunication lines used to access the internet are beyond our control;
  - c) We do not and are unable to exert any control over other users of the internet and telecommunication lines used to access the internet;
  - d) The hyperlinks and other pointers to websites maintained by others that are on the Services, and the websites themselves, are not under our control;
  - e) The hyperlinks and other pointers to websites maintained by others that are on the Services are provided as a convenience only, are not endorsed by us in any way and, if you use them, you do so entirely at your own risk
  - f) Access to the Services is provided on an "as is" basis and we do not warrant that the Services will meet a certain standard, be free from errors, delays, omissions or failure or be suitable for your purpose, or that any data will be accurate or complete. Access is provided at your sole risk.

## 10. LIMITATION OF LIABILITY AND INDEMNITIES

- 10.1 Subject to those provisions of the Competition and Consumer Act 2010 and the Corporations Act 2001 and any other rights implied by law, which cannot be excluded by agreement between the parties:
- 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 Services;
  - b) we exclude all liability in contract or otherwise relating to or resulting from use of any services we provide under these Terms and for any loss incurred by you directly or indirectly 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 Services;
    - (ii) any delays or failures or inaccuracies in the transmission of data or other information including without limitation the Services;
    - (iii) any misinterpretation of your data or instructions which are unclear, ambiguous, or not specific;
    - (iv) any delay, default, failure in or loss of access to the Services;
    - (v) any government restriction, exchange or market rulings, suspension of trading, computer or telephone failure, unlawful access to our Services, theft, sabotage, war, earthquakes, strike force majeure and, without limitation, any other conditions beyond our control.

- 10.2 You acknowledge and agree that:
- a) You will use the Software and access the Services at your own risk and you will indemnify us and keep us indemnified including our related entities and our Affiliates and hold us harmless together with our agents, Affiliates, employees, and subcontractors against any loss, damage, cost or expenses resulting either directly or indirectly from the use or access to the Software, the Services or Derived Information or a breach or default or failure by any party to perform its obligations under the Terms; and
  - b) you indemnify us (including our related entities, directors, employees, agents, Affiliates and representatives) in respect of all sums of money, actions, proceedings, suits, claims, demands, damages, costs, expenses and any other amounts whatsoever arising out of any use of the Services or any default by you under these Terms, or anything lawfully done by us in accordance with these Terms or at your request, by reason of us complying with any direction, request or requirement of any regulatory authority.
- 10.3 You acknowledge and agree that our total liability and that of our related entities for:
- a) any breach of the Terms, or
  - b) any breach in tort (including negligence), or otherwise
  - c) any breach in connection with the Terms, or
  - d) any claims, loss or damage incurred in any way relating to the Software, or
  - e) any breach in the provision of access to the Services or the Derived Information, or as a result of any act or omission by us, or any of our related entities, under or in connection with the Terms will not exceed \$100 for all claims and causes of action and, in the case of a defective product or service provided under the Terms, is limited at our option to the supply of the Services again, or the payment of the cost of having it supplied again.
- 10.4 You agree that no action, regardless of form, arising out of or pertaining to the Terms may be brought by you against us or any of our related entities more than 3 months from the date such cause of action arises. We nor any of our related bodies corporate nor our Affiliates are liable to you or any other person for any indirect, consequential or incidental loss or any special or punitive damages caused or contributed to by us or our related entities under or in connection with the Terms or the provision of any of the products or Services referred to herein.

## 11. NOTICES

- 11.1 Notices given by us may be sent to an address, fax number or email address specified by you, or by posting the notice on our website or by displaying the message in the Software. Any notice given by us is taken to have been received on the business day following the transmission or posting of the notice.
- 11.2 Notices given by you must be in writing and sent by post or facsimile to our address or facsimile number specified by us on our website or as otherwise notified by us. A notice given by you is taken to have been given at the time it is actually received by us.

## 12. DISCLAIMER REGARDING INVESTMENT ADVICE

- 12.1 You acknowledge that the provision of the Services by us (including data comprising the Services) does not constitute and is not suitable to be acted upon as investment advice. It is recommended that you seek independent professional advice before making investment decisions in reliance on the Services or data.

## 13. TERMINATION

- 13.1 Either party may terminate these Terms at any time by giving written notice. Termination is effective at the end of the calendar month following the effective notice period.
- 13.2 The termination of these Terms does not affect outstanding obligations under these Terms which remain undischarged at the time of termination.
- 13.3 Each indemnity provided within these Terms survives the termination of these Terms.

## 14. GENERAL

- 14.1 These Terms are governed by and construed in accordance with the laws of Victoria and the parties submit to the non-exclusive jurisdiction of the courts of Victoria.
- 14.2 We may vary these Terms by giving you not less than five (5) business days notice of any variation in writing, by updating our website or by electronic mail. If we believe a variation is necessary to maintain or restore the security of any accounts or of its systems or to comply with any legal or regulatory requirement, we may make the variation without prior notice and will notify you of the change as soon as practicable after the change.
- 14.3 Each part of these Terms is severable from the balance of these Terms and if any part of these Terms is illegal, void, invalid or unenforceable, then that will not affect the legality, effectiveness, validity or enforceability of the balance of these Terms.
- 14.4 No failure by us to exercise, and no delay by us in exercising, any right, power or remedy in connection with this document will operate as a waiver of that right, power or remedy. No single or partial exercise of any right, power or remedy will preclude any other or further exercise of such right, power or remedy or the exercise of any other right, power or remedy.
- 14.5 These Terms are not to be interpreted against our interests merely because we proposed these Terms or some provision in it or because we rely on a provision of these Terms to protect our self.
- 14.6 You may not assign or otherwise transfer any of your rights under these Terms to another person without our prior written consent. We may assign or otherwise transfer any of our rights under these Terms to another person without your prior written consent including, without limitation, in connection with a sale or transfer of our business to another person or entity.
- 14.7 Headings used in these Terms are used for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.
- (a) A reference to legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (b) A singular word includes the plural, and vice versa.
  - (c) A word which suggests one gender includes the other genders.
  - (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
  - (e) A reference to time is to local time in Melbourne, Victoria.

## GLOSSARY

In these Terms, the following words and expressions have the meaning set out below:

**Affiliate** means, with respect to us, an entity with which we have a current licence agreement or other contract to provide and/or carry Derived Information.

**Deep Hyperlink** means a direct hypertext link established for purposes other than personal use by you from a web page outside the Services to a web page within the Services or Software which contains any Derived Information

**Derived Information** means all data and other information provided by us or our Affiliates.

**Exchange** means the Australian Securities Exchange Limited, Chi-X Australia Pty Ltd or any other exchange in Australia or overseas on which securities are quoted and traded.

**Loss** means a damage, loss, cost, expense or liability incurred by the person concerned, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

**GST** has the same meaning as in the A New Tax (Goods and Services Tax) Act 1999 (Cth).

**Intellectual Property Rights** means all current and future registered and unregistered rights in respect of copyright, designs, circuit layouts, trade marks, trade secrets, know-how, confidential information, patents, inventions and discoveries and all other intellectual property as defined in article 2 of the convention establishing the World Intellectual Property Organisation 1967, and includes intellectual property in the Services, our websites, the Software, accompanying documentation and the access code.

**Permitted Purpose** means personal use or internal use for the operation of your business, or as otherwise agreed in the case of particular Users or types of Users.

**Run** means, in relation to the Software, to install, use, access, display or load a copy of the Software on a computer, computer system or on any Storage Device

**Services** includes all trading subscription services and data provided to you by us including the computer programs and systems owned or licensed to us or our related bodies corporate able to be accessed by use of the Software, being a communications and analytical computer-based system that permits the access, analysis and manipulation of Derived Information, or as varied in accordance with these Terms. For clarity, only trading subscription services as outlined in clause 2 are covered by these Terms.

**Software** means

1. computer programs licensed to us and include IRESS ViewPoint, IRESS ViewPoint Lite, IRESS Mobile and modifications and enhancements thereto;
2. the software developed, owned or provided by us, including any improvements, modifications and related data; and
3. software developed by any of our Affiliates which we are authorised to provide access to you.

**We, us, our** means Trade For Good Pty Ltd (ABN 41 643 105 999) and any of our related bodies corporate and our Affiliates as the case may be.

**You** means the person accepting these Terms.

1 November 2020