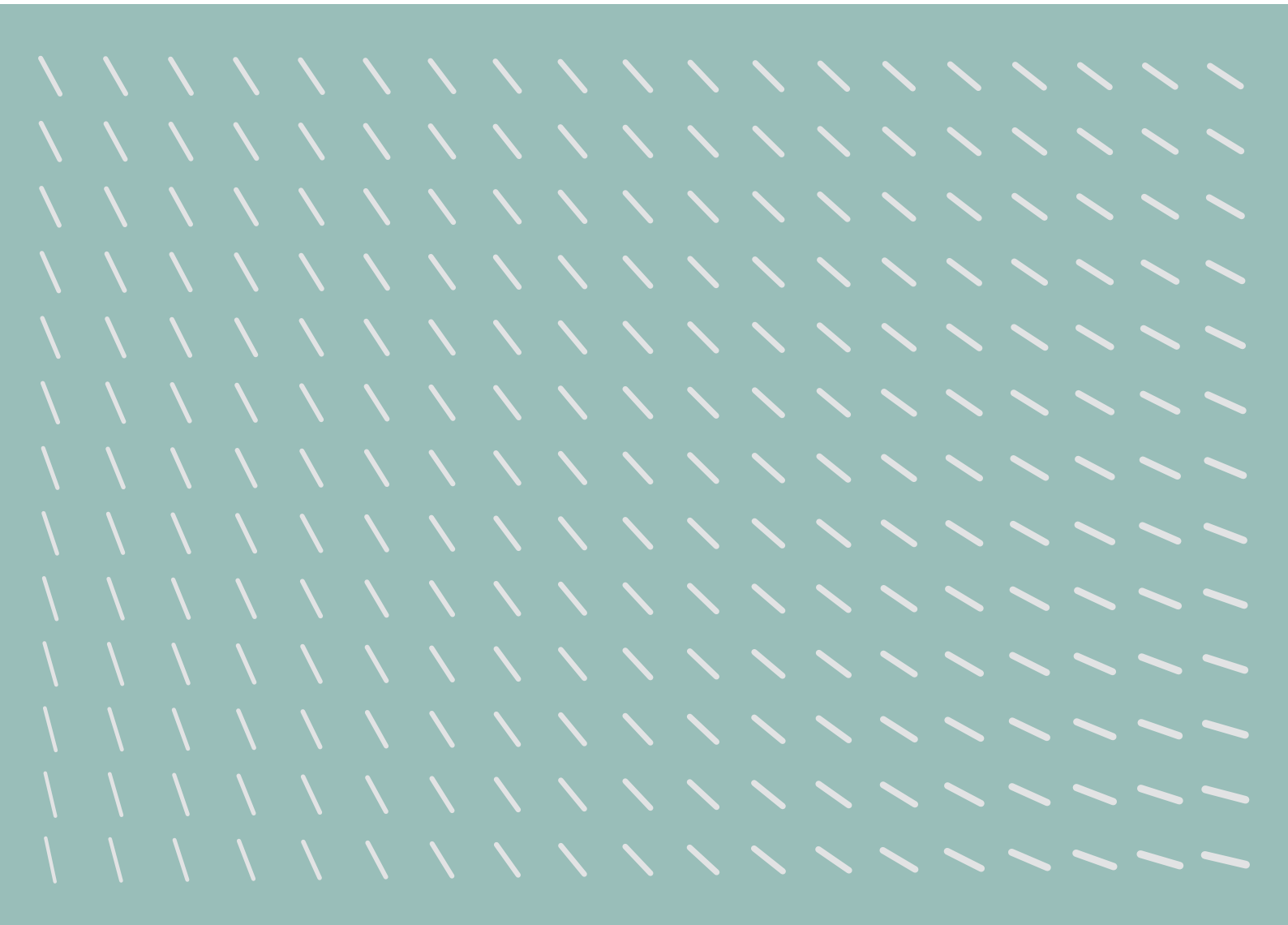


H O B S O N  
W E A L T H



# Terms and Conditions

August 2021





# Terms and Conditions

**These Terms and Conditions set out the terms and conditions on which we will provide advice and services.**

These Terms and Conditions are arranged as follows:

**Part A: General Terms and Conditions**, which applies to all advice and services we provide.

**Part B: Trading**, which applies when you instruct us to facilitate trades or otherwise provide trade services to you.

**Part C: Custody Services: Hobson Portfolio Service and International Custody**, which applies where we provide or arrange custody services.

**Part D: Definitions and Interpretation**, which includes the definitions for capitalised terms. To understand the Terms and Conditions, you should refer to the definitions as you read through.

## PART A: General Terms and Conditions

### 1. General

- 1.1 These Terms and Conditions apply to any transaction, financial or otherwise, executed on your Account or any Services we provide you.
- 1.2 You acknowledge that we are not obliged to accept you as a client or provide you with any explanation for refusing your Account application if we decide to do so.
- 1.3 We retain the right not to provide services or issue products to you.
- 1.4 You acknowledge that all Services we undertake on your behalf are subject to Applicable Laws. Any action we take, or omit to take, to comply with Applicable Laws will be regarded as being in accordance with these Terms and Conditions.
- 1.5 Any amendments to the NZX Participant Rules, Clearing & Settlement Rules and/or Depository Rules will apply automatically to these Terms and Conditions without needing to amend these Terms and Conditions. We may notify you of such changes in accordance with clause 15 (Changes to Terms and Conditions) of this Part A (General Terms and Conditions).
- 1.6 If these Terms and Conditions are inconsistent with the NZX Participant Rules, Clearing & Settlement Rules and/or Depository Rules (whether arising because of amendment to those rules or otherwise), the relevant rules will take precedence and will apply as if these Terms and Conditions were consistent with the relevant rules.
- 1.7 Additional terms and conditions may apply to the specific products or services we provide. Your Adviser will give you any applicable additional terms and conditions. If any terms and conditions conflict, the additional terms and conditions will take precedence for the products and services to which they apply.
- 1.8 You will cooperate with us in providing any information required by any Applicable Laws to be provided to a Regulatory Body.

### 2. Overview of Services

- 2.1 We provide investment advice, investment planning services including a managed investment scheme, transactional and administration services, research services and custody services; we also advise on warrants to subscribe for investments, foreign exchange transactions and discretionary investment management services for qualifying wholesale clients; we also facilitate margin lending services; and we arrange dealing and ancillary services, in each case as set out in these Terms and Conditions. These services will generally be available for the following investments:



Asset Class	Definition
Cash & Cash Equivalents	Income producing assets such as bank deposits, Portfolio Investment Entity (PIE) funds, term deposits (under one year), debenture stock, loan stock, notes, certificates of deposit, commercial paper and Cash Management Funds.
Fixed Interest	Income generating direct Government and corporate bonds, commercial bonds managed funds and exchange traded funds both locally and offshore including hybrid type investments.
Property	Listed and unlisted property trusts and companies and funds in NZ and Internationally.
New Zealand Equities	Listed or unlisted New Zealand companies, managed funds, exchange traded funds.
Australian Equities	Listed or unlisted Australian companies, managed funds, exchange traded funds.
International Equities	Listed or unlisted international companies, managed funds, exchange traded funds.
Managed Funds	Listed or unlisted managed funds. Unit trusts, superannuation products, group investment funds and similar schemes in New Zealand or elsewhere
Exchange Traded Funds (ETFs)	Listed exchange traded funds. An exchange-traded fund, is a marketable security that tracks a stock index, a commodity, bonds, or a basket of assets
Alternative Asset Classes	These include a range of investments that may not fit in the standard asset classes mentioned above. Examples include: commodities, rare coins, stamps, and artworks as well as private equity, venture capital and hedge funds. Due to the nature of these investments, an accurate valuation can sometimes be difficult to ascertain.

- 2.2 We may also arrange to provide additional Services as agreed with you (such as share margin trading products). Further documentation requirements may apply regarding additional Services.
- 2.3 Our Services do not include tax advice. We recommend you consult your tax adviser before you decide to invest or trade in investment products.

- 3.5 We may consider it reasonable to send you generalised research, reports or other publications from time to time based on assumptions we have made about your particular characteristics. You acknowledge that advice contained in such publications may not specifically take account of your financial situation, needs, goals, or tolerance for risk. We recommend you obtain appropriate advice before making any investment decisions.

### 3. Financial Advice

- 3.1 We will use our best endeavours to ensure that we provide quality advice and carry out your instructions once your Adviser receives them.
- 3.2 Your Scope of Service document has information about the financial advice available to you. Your Adviser will provide you with a copy of this document and any changes from time to time.
- 3.3 You acknowledge that we can provide you with financial advice only where we have a reasonable basis for doing so. We may form that reasonable basis based on information you provide to us or assumptions we have made about you based on your particular characteristics. The extent to which we take into account your investment objectives, financial situation, risk tolerance and particular needs will depend on the scope of the service you wish to receive.
- 3.4 It is important that the information you provide is correct at all times. If the information is incomplete and/or inaccurate, our investment advice and recommendations may be incomplete and/or inaccurate also. You must notify us promptly of any change to this information or your circumstances as this may affect the suitability of the financial advice or Services we provide you.

### 4. Risk warnings

- 4.1 You acknowledge that:
- 4.1.1 there are risks associated with investing in Securities and other financial products, including but not limited to general market movements due to political, economic, taxation or legislative factors, movement of exchange rates, changes in trade or tariff policies, sector or company specific factors, suspension or restriction of securities trading, and disruption to trading facilities;
- 4.1.2 Security prices or yields and any income generated by Securities may vary, either up or down, including as a result of the factors listed in clause 4.1.1 of this Part A (General Terms and Conditions) above, impacting on the Securities and the issuer of the Securities. Securities can decline in value, and the value of your investments may fall below the price you paid for them;
- 4.1.3 you may not earn any income on your investments;
- 4.1.4 different financial instruments and markets give rise to different levels of risk. This is also the case for different types of trading such as trading in derivatives. Generally, the more volatile an asset is, the greater the likelihood of capital loss from investing in an asset; and



- 4.1.5 past performance is not a reliable guide to future performance and we cannot and do not guarantee the performance or financial return on any investment made by you.
- 4.2 In addition to the general risks referred to in clause 4.1.4. of this Part A (General Terms and Conditions) above, you should note the following specific risks in relation to margin lending. Margin lending is a loan facility secured against your existing securities, which enables you to buy more shares. This may give you the potential to increase your investment portfolio and your exposure to greater capital growth and income. While greater exposure may increase potential profit, it also increases the risk of loss should share prices fall. Also, if the value of your investment portfolio declines, the margin product provider may require you to provide additional security or repay part of your margin loan. Margin lending is a sophisticated way to invest, with higher potential risks than other investments. It is important you understand these risks when considering if margin lending is right for you, and you should speak to your Adviser to understand the risks and benefits.
- 4.3 You also acknowledge that:
  - 4.3.1 we (and our directors, officers, agents, and employees) do not guarantee repayment of any investment, the continued value of any investment in Securities, return from any investment in Securities or the payment of any income in respect of any investment made by us on your behalf;
  - 4.3.2 New Zealand and overseas taxes may affect the return on your investments. We recommend you obtain independent professional tax advice relevant to your particular circumstances before investing or trading with us; and
  - 4.3.3 different tax rules and consequences may apply to you depending on your tax status, the nature of your investments and the quantity and composition of your investments. You must be aware of and monitor your tax status, how applicable tax rules apply to you and any transactions undertaken by you or on your behalf, whether in New Zealand or overseas.

## 5. Your commitments

- 5.1 You represent and warrant that:
  - 5.1.1 you are and, at all times during your dealings with us, will be in a position to meet all your commitments (financial and otherwise) arising out of dealings with us or business conducted by us on your behalf;
  - 5.1.2 you have not suffered an Insolvency Event;
  - 5.1.3 you and all Authorised Persons are over the age of 18 years;
  - 5.1.4 you and all Authorised Persons have full power, capacity and authority to enter into these Terms and Conditions and to exercise the rights and perform the obligations under these Terms and Conditions;
  - 5.1.5 any information and documents you or your Authorised Persons give us are accurate, free of any misrepresentations and do not contain omissions as to the material facts; and

- 5.1.6 you will not at any time use our Services to breach any Applicable Laws.
- 5.2 If more than one person constitutes the Client then each of those persons agrees they are jointly and severally liable under these Terms and Conditions. Unless otherwise specified in writing, all persons constituting the Client agree that we may act on the instructions of any one of the persons without needing to refer to or notify any other person in connection with those instructions.
- 5.3 Where an Account is established in the name of a company, limited partnership, partnership, trust or other entity, you agree:
  - 5.3.1 any liabilities incurred on that Account will be deemed to be the entity's responsibility; and
  - 5.3.2 the entity's directors, officers, trustees or partners may be held personally liable for the purposes of these Terms and Conditions where the directors, officers, trustees or partners act fraudulently, negligently or with wilful misconduct, irrespective of whether the debts are incurred in the entity's name.
- 5.4 Where an Account is established in the name of a trust, we agree that the trustees that are 'independent trustees' will not have personal liability under these Terms and Conditions but will be liable to the extent of the assets that are held by the trustees of the trust. However, this limitation will not apply if a trustee acts fraudulently, negligently, with wilful misconduct or in breach of trust, and in such case the trustee will be personally liable under these Terms and Conditions. A person is an 'independent trustee' for the purposes of this clause 5.4 of this Part A (General Terms and Conditions) if an Account has been established in the name of a trust and neither that person, as trustee of the trust, nor their spouse, civil union partner, de facto partner, child or grandchild are a beneficiary of the trust or have a power of appointment of trustees or beneficiaries of the trust.

## 6. Providing information

- 6.1 You agree to provide us promptly any information or assistance that we ask of you from time to time in connection with our Services, including for compliance with Applicable Laws, in connection with any application you or your Authorised Persons submit for a financial product and any other reasonable request.
- 6.2 You agree to notify us in writing promptly (and at least within 10 Business Days) of any change to personal details or other information previously provided.
- 6.3 We reserve the right to refuse to act if you do not provide information on request and in a timely manner.
- 6.4 In order to comply with AML/CFT Laws, we are required to request certain documents and information from you, the Beneficial Owners and Authorised Persons from time to time and we are also required to take steps to verify these documents and the information provided. You agree to provide us with all such requested documents and information and to assist with the provision of providing documents and information from Beneficial Owners and Authorised Persons.



- 6.5 In complying with all applicable tax laws and regulations (including, without limitation, FATCA Laws and CRS), we may seek information and documentation from you, whether as part of the application process or otherwise. You agree to provide information and assistance and comply with all reasonable requests to facilitate our compliance with all Applicable Laws.
- 6.6 Where the Account is established in the name of a discretionary trust, you must notify us when a beneficiary of that trust receives a distribution from that trust.

## 7. Account holds

- 7.1 Your Account may be placed on hold:
  - 7.1.1 on the death of an Account holder until such time as we receive the necessary documents to ascertain the person authorised to act on the Account;
  - 7.1.2 on the death of or removal of all existing Authorised Persons until such time as a new Authorised Person is duly appointed by you in accordance with clause 10 (Authorised Persons) of this Part A (General Terms and Conditions);
  - 7.1.3 where we have reasonable grounds to believe there is a dispute as to ownership of funds held in the Account or on your behalf;
  - 7.1.4 where we have reasonable grounds to believe that you have committed a civil or criminal offence in relation to funds held in the Account or on your behalf;
  - 7.1.5 where we lack the information or documentation required by us to meet our obligations under Applicable Laws and any other regulatory obligations;
  - 7.1.6 where we are requested or instructed to do so by the police, a Regulatory Body or any other law enforcement body, until such matter is resolved; or
  - 7.1.7 where this arrangement is terminated in accordance with clause 12 (Termination) of this Part A (General Terms and Conditions).
- 7.2 Unless prohibited by law, or an enforcement authority or Regulatory Body requests us not to do so, we will notify you in writing if we exercise our rights under clause 7.1 of this Part A (General Terms and Conditions) above.
- 7.3 We are not liable to you for placing any hold on your Account in accordance with these Terms and Conditions and you are liable for any Losses we reasonably incur if we are found liable to a third party in connection with placing a hold on your Account.

## 8. Fees and costs

- 8.1 You must pay all charges, fees, commissions, costs, expenses and liabilities we charge or reasonably incur in relation to Services we provide you, on demand or as otherwise advised. We may deduct from your Account (from money payable to you) such charges, fees, commissions, costs, expenses and liabilities.

## 9. Security

- 9.1 If you become aware of any unauthorised instructions on your Account, you must contact us or your Adviser as a matter of urgency.
- 9.2 You acknowledge we are entitled to rely on any instruction, notice, communication or order you or your Authorised Person reasonably appear to place on your Account or that you appear to otherwise duly authorise.
- 9.3 We will not be entitled to rely on an order placed on your Account if:
  - 9.3.1 you have advised us that there was (or you suspect) unauthorised activity on your Account; or
  - 9.3.2 our employee gave the order fraudulently.
- 9.4 We may require you to comply with any reasonable security precautions (including to comply with Applicable Laws) or to provide a personal guarantee before we accept or action your instructions.

## 10. Authorised Persons

- 10.1 You may at any time by written notice to us remove a person as an Authorised Person or appoint a person as a replacement or additional Authorised Person.
- 10.2 The appointment of a person as an Authorised Person is not effective until we have received all documentation we reasonably require in relation to the appointment.

## 11. Limits on our liability

- 11.1 To the maximum extent permitted by law, we are not liable to you or any Authorised Person for any Loss resulting from the proper performance of our rights or obligations in accordance and in connection with these Terms and Conditions, unless any Loss is directly caused by our gross negligence, fraud or dishonesty. In particular, without limiting the generality of the prior wording, we are not liable to you or any Authorised Person for any Loss resulting from:
  - 11.1.1 any advice, act or omission by us or your Adviser in acting on any instruction or performing any obligations under these Terms and Conditions (including any Losses that may result from any delay or change in the market, before any particular instruction or transaction is effected), except to the extent that any such Loss is directly caused by our gross negligence, fraud or dishonesty;
  - 11.1.2 any acts or omissions of any Trading Participant we appoint where they act outside of the scope of our appointment with them or contrary to our instructions, except to the extent that any such Loss is directly caused by our gross negligence, fraud or dishonesty;
  - 11.1.3 any acts or omissions of any other agent, issuer, fund manager, clearing house or third party used in effecting any instruction, except to the extent that any such Loss is directly caused by our gross negligence, fraud or dishonesty; or
  - 11.1.4 any Authorised Person's acts or omissions.



- 11.2 To the maximum extent permitted by law, any liability we have to you or any Authorised Person will be limited to the direct Loss you suffer or incur, and will exclude any loss of revenue, loss of business opportunity, loss of profit or loss of anticipated savings (whether direct or indirect in each of those cases) or any indirect, special or consequential loss.
- 11.3 You agree that to the extent you are in trade and acquire our Services in trade the New Zealand Consumer Guarantees Act 1993 will not apply provided it is fair and reasonable that you are bound by this clause.
- 11.4 The provisions of this clause 11 of Part A (General Terms and Conditions) will survive termination of these Terms and Conditions.

## 12. Termination

- 12.1 We or you may terminate the arrangement under which we provide Services to you under these Terms and Conditions by giving to other party at least five Business Days' notice in writing or by mutual written agreement.
- 12.2 The termination will become effective from the date specified in the notice or agreed in writing by the parties. After termination, we will not action any unexecuted orders.
- 12.3 Any termination will not relieve any party from any liability incurred or obligation undertaken before any notice or agreement to terminate. Provisions that are expressed to survive termination will continue in force after termination.
- 12.4 You will have 10 Business Days from the issue of such notice to instruct us in writing to either transfer any of your investments to an account nominated by you or liquidate all of your holdings and investments as soon as reasonably practicable (and any written agreement will cover such instruction).
- 12.5 If you do not instruct us in accordance with clause 12.4 of this Part A (General Terms and Conditions) above, we will liquidate all of your holdings and investments as soon as reasonably practicable and transfer the net proceeds (less any fees or costs owing by you) to an account nominated by you.
- 12.6 The provisions of this clause 12 of this Part A (General Terms and Conditions) will survive termination of these Terms and Conditions.

## 13. Jurisdiction

- 13.1 The laws of New Zealand apply to these Terms and Conditions and you submit to the exclusive jurisdiction of the New Zealand courts.

## 14. Assignment

- 14.1 You acknowledge that you cannot assign, encumber or otherwise deal with your rights under these Terms and Conditions without our prior written consent, which may be reasonably withheld. Any action that purports to do any of these things without our consent is void.
- 14.2 Hobson Wealth may assign or otherwise deal with its rights under these Terms and Conditions without your consent, for legitimate business purposes including, without limitation, business reconstruction, amalgamation, sale or securitisation. Where such assignment may materially

prejudice your rights under these Terms and Conditions, we may assign or otherwise deal with our rights under these Terms and Conditions only after providing you with at least 10 Business Days' written notice.

## 15. Changes to Terms and Conditions

- 15.1 We may vary these Terms and Conditions at any time by notice to you. Such notice may be by direct communication with you by telephone, email or post, or by posting a notice on our Website or by any other medium we choose. The effective date of the variation will be on the date of the notice or such later date that we specify.
- 15.2 You may request a copy of our latest Terms and Conditions by contacting us.
- 15.3 We may vary the charges payable by you by giving you at least 30 days' written notice.
- 15.4 If you continue to use our Services after we give notice under clause 15.1 or clause 15.3 of this Part A (General Terms and Conditions) above, you are deemed to accept the new terms and conditions.

## 16. Privacy

- 16.1 By using our Services you acknowledge that we will collect, hold, use and disclose personal information in accordance with our privacy policy available on our Website.

## 17. Electronic Verification

- 17.1 Where you consented to electronic verification of your information, our service provider will verify only the details you provided to us and will not provide us with additional information on your credit history.
- 17.2 If we are unable to confirm the details you provided through electronic verification, we will contact you to require further information.
- 17.3 Your consent to electronic verification can be subsequently withdrawn by requesting that the identity check currently in progress be cancelled, notifying us in writing that you wish to withdraw electronic verification consent or ceasing to be our Client.

## 18. Complaints

- 18.1 If you have a dispute or complaint, in the first instance you should notify your Adviser. We will try to resolve the matter in good faith.
- 18.2 If the matter is not resolved to your satisfaction, you can make a complaint to us by emailing [compliance@hobsonwealth.co.nz](mailto:compliance@hobsonwealth.co.nz) or by writing to us at:

The Compliance Manager  
Hobson Wealth Partners Limited  
PO Box 4349, Shortland Street  
Auckland 1140  
New Zealand  
Email: [compliance@hobsonwealth.co.nz](mailto:compliance@hobsonwealth.co.nz)



- 18.3 If we cannot resolve your complaint to your satisfaction, you can contact Financial Services Complaints Limited. Financial Services Complaints Limited provides a free, independent dispute resolution service. You can contact them by:
- emailing [info@fcsl.org.nz](mailto:info@fcsl.org.nz);
  - calling 0800 347 257;
  - completing a complaint form on their website: <https://www.fscl.org.nz/complaints/complaint-form>; or
  - writing to: FSCL, PO Box 5967, Wellington, 6145, New Zealand.
- 18.4 If your complaint relates to a potential breach of the NZX Participant Rules, the Clearing & Settlement Rules or the Depository Rules you may direct your complaint to:
- NZX Market Supervision  
NZX Limited  
PO Box 2959  
Wellington 6140

## 19. Severance

- 19.1 If any provision of these Terms and Conditions is invalid and not enforceable for any reason, these Terms and Conditions will remain in full force apart from such provision which will be deemed deleted.

## 20. Force majeure

- 20.1 We will not be liable for any Loss caused by or arising directly or indirectly from government restriction, exchange or market regulation, acts of God (including fire, earthquake, storm, hurricane or other natural disasters), suspension of trading, pandemic or epidemic, war, invasion, acts of foreign enemies, terrorist activities, cyber-crime, strike, equipment failure, the failure of an email communication to reach the intended recipient, communication line failure, system failure, security failure on the internet, unauthorised access, theft, any problem, technological or otherwise, that might prevent us from performing our obligations under these Terms and Conditions, or any other circumstances beyond our control.

## 21. Notices

- 21.1 Unless otherwise specified, any notice, report or other communication given by us under these Terms and Conditions ("Notice") must be in writing or capable of being printed and:
- 21.1.1 left at the address of the addressee; and
  - 21.1.2 sent by prepaid ordinary post, or airmail if posted from outside New Zealand;
  - 21.1.3 sent by email, to the address set out in the Application Form or any replacement address you have notified us in writing; or
  - 21.1.4 be made available for you to view through the client portal accessible on our website ("Client Portal").
- 21.2 You agree that, if you have supplied us with an email address or have registered on our Client Portal, by law we may provide any Notice to you by sending it to you at that email address or making it available for you to view through the Client Portal (as applicable).
- 21.3 All notices required or permitted to be given to or served on us must be in writing sent to Hobson Wealth Partners New Zealand, PO Box 4349, Shortland Street, Auckland 1140, New Zealand or by email at [compliance@hobsonwealth.co.nz](mailto:compliance@hobsonwealth.co.nz).
- 21.4 Except as otherwise specified within these Terms and Conditions, Notice given or served under these Terms and Conditions will be deemed to be received:
- 21.3.1 in the case of a posted letter, at 5pm on the third Business Day after posting unless posted from outside New Zealand, in which case it will be deemed to be received on the seventh Business Day after posting (except where a letter is an order instruction);
  - 21.3.2 in the case of an email (except where an email is an order instruction), at the time and date indicated on an email delivery receipt received by the computer from which the email was sent indicating that the email was received at the nominated email address of the recipient; and
  - 21.3.3 if you have registered on our Client Portal, when the Notice is available to be viewed through the Client Portal.
- 21.5 Any notice or other communication received by us after 5pm will be deemed to have been received at 9am on the next Business Day. We will use our best efforts to process such communications as soon as practicable after receipt.



## Part B: Trading Services

### 1. Our trading Services

- 1.1 We are authorised as an NZX Trading Participant and we from time to time facilitate trades in the NZX markets. As a Clearing Participant, we are also responsible for clearing and settling those trades for Clients.
- 1.2 We may also enter into arrangements with other Trading Participants overseas, for the purposes of facilitating trades in the markets provided by other Recognised Securities Exchanges. We have entered into an arrangement with FinEx (an ASX Trading Participant), for the purpose of facilitating trades on an Australian Exchange. Under the terms of our arrangements with FinEx:
  - 1.2.1 we may request FinEx to open an account for you, at your request, for the purpose of facilitating trades on the relevant exchanges FinEx offers;
  - 1.2.2 if clause 1.2.1 of this Part B (Trading Services) applies, we must give you, before FinEx establishes an account, all FinEx client documentation and any document we must give you as a result of FinEx's engagement of third party clearing provider FinClear. This will include FinEx's Terms of Trade, which you must acknowledge and accept;
  - 1.2.3 FinEx will act on our instructions (as your agent) for an order, without reference to you. However, any such order must represent your instructions and must be within the scope of your written authorisation;
  - 1.2.4 FinEx has agreed to arrange for FinClear to receive net payments from us on the morning of each settlement date and/or pay us a net settlement amount in the afternoon of each settlement date; and
  - 1.2.5 to the extent necessary, we may disclose to you fees payable by us to FinEx in respect of the arrangements.
- 1.3 We reserve the right not to accept orders in relation to certain Recognised Securities Exchanges or Securities. If you wish to transact Securities on Recognised Securities Exchanges other than the NZX or an Australian Exchange, you must use the Custody Services.
- 1.4 Unless otherwise agreed in writing, we will not under any circumstances act on a discretionary basis on your behalf or for your benefit.

### 2. Your instructions and trading procedures

- 2.1 You or your Authorised Person may give instructions, including orders to buy or sell Securities or foreign currency, to your Adviser by telephone, by email, by letter, in person or in such other manner as we advise from time to time.
- 2.2 You acknowledge that instructions sent by electronic means and post may experience delays either in being received or being executed. We will action orders sent by email or post once our relevant personnel have received and read them. We will not be responsible for any delay in actioning an instruction if the relevant personnel have not

unreasonably delayed opening the email or post after it is actually received.

- 2.3 You must ensure that all details relating to your instructions are accurate, including but not limited to providing your FIN, CSN, SRN, HIN or equivalent security holder identification number, the name of the Securities, the volume of the Securities and the value of total order. For sell orders, you must ensure sufficient Securities are held to cover the order. You will be liable for any costs we incur as a result of your failure to provide details or if you provide incorrect details and we may charge you a fee commensurate with our administrative costs and any other fees we reasonably incur.
- 2.4 We will use best endeavours when executing your 'at market' or 'at limit' orders but cannot guarantee precise execution as to the price we specify to you at order entry. We are not liable for any Loss or damage in relation to any dispute arising from the price at which an 'at market' order is filled or in the case of an 'at limit' order where we complied with any limits you imposed. An 'at market' instruction may not be able to be completed in an illiquid market, or where completion of the order would cause a material change to the price or volume of the specific security.
- 2.5 You acknowledge that all orders you place outside our normal business hours will not be implemented until the beginning of the next Trading Day. Each order will remain current until such order is completed or cancelled.
- 2.6 If you wish to amend or cancel an order, you must give specific instructions to your Adviser (or an alternative Hobson Wealth representative) to amend or cancel that order. If part of that order is filled before the amendment or cancellation instruction has been effected, you will be liable to settle the partially filled order or liable for any fees incurred for non-settlement. Cancellation of orders is not guaranteed. Orders will only be cancelled for requests received during trading hours on a Trading Day and matched up with the order before the order is executed. Cancellations are confirmed only when we advise you.
- 2.7 You acknowledge that all buy and sell orders will attract brokerage whether fully or partially completed.
- 2.8 We will use our best endeavours to give effect to your instructions once your Adviser receives them.
- 2.9 You acknowledge that there may be delays between you placing an order to sell Securities and the execution of that order, due to the need to verify the holding and the registration details of the holding before your order is entered into the relevant Recognised Securities Exchange system. We are not liable for any Loss that may result from delay caused by factors beyond our reasonable control.
- 2.10 You acknowledge that an order is not accepted until it has been placed into the relevant trading system and a Regulatory Body may withdraw an order. If an order is rejected or withdrawn, we will use our best endeavours to contact you.
- 2.11 You must not knowingly issue instructions to us that will breach, or are likely to cause us to breach, any Applicable Laws, including (without limitation) in relation to market manipulation, wash trading or matching of orders, insider trading and front running, the creation of a disorderly

market, the integrity or efficiency of the market, short selling requirements or misleading or deceptive conduct concerning dealings in Securities.

### 3. Foreign currency exchange trades

- 3.1 If you provide us with an instruction to buy or sell Securities on any international market, a foreign currency exchange trade to accompany the transaction will only be carried out following execution of that trade if you instruct us to do so or if you have made such an arrangement with your Adviser.
- 3.2 You will incur foreign exchange charges on all transactions that require funds to be converted to or from another currency. For the purposes of conversion into or from one currency to another, the exchange rate we use in the course of facilitating trades will likely be a midpoint rate with a currency conversion margin. We may receive compensation from the currency conversion margin. The exchange rate or rates for a particular transaction will be those applicable at the time at which the foreign exchange order is entered into the trading system.
- 3.3 You acknowledge that we will apply a margin to any foreign exchange transaction you undertake. We will disclose any such margin, including the purpose for which the margin is taken, before executing a foreign currency exchange trade.
- 3.4 You acknowledge you will bear the cost of any variation in currency prices on each side of a foreign currency exchange trade and that foreign currency exchange trades carry risk. You should acquaint yourself with such risks before requesting a foreign currency exchange trade.

### 4. Confirmation of executions

- 4.1 Following successful execution of an order, a contract note will be issued relating to the Securities bought or sold in your name and the contract note will be forwarded to you in the format you selected in the Application Form or you have subsequently advised us.
- 4.2 Where an order is partially filled over more than one Trading Day, you will be issued a contract note relating to the transaction(s) executed at the end of each Trading Day for the transaction(s) executed on that Trading Day.
- 4.3 We may at any time reissue a contract note in order to correct any errors or omissions and these Terms and Conditions will be binding on the reissued contract note.
- 4.4 You agree to notify us of any errors or omissions on a contract note within 48 hours of receipt of the contract note. You will be deemed to accept the terms of the contract note if you do not notify us of any errors or omissions within 48 hours of receipt.

### 5. Discretions

- 5.1 We may delay execution of or refuse to execute any instructions you or your Authorised Person give us, or generally prohibit or restrict you or your Authorised Person from trading in or from your Account(s) where we see fit for the following reasons:

- 5.1.1 the instructions are not clear and complete or do not meet all trade requirements;
  - 5.1.2 the original instruction has gone stale, including if it is more than four weeks old for Securities traded on the NZX, more than three weeks old for orders on an Australian Exchange, or such other periods as apply to Securities traded on another Recognised Securities Exchange;
  - 5.1.3 you do not have sufficient Securities or funds in your nominated settlement account or our Client Funds Account to settle the transaction, or you have money outstanding on your Account;
  - 5.1.4 trading in the relevant Securities has been suspended or halted for any reason whatsoever and you have not reconfirmed instructions;
  - 5.1.5 we and/or any other Trading Participant we appoint consider the order is likely to:
    - (a) breach Applicable Laws;
    - (b) be unethical or be reasonably likely to negatively impact us and/or the Trading Participant's reputation and integrity in the market;
    - (c) create a disorderly market in the Securities;
    - (d) be outside the scope of your Adviser's authority or agreed scope of service; or
    - (e) exceed a trading limit;
  - 5.1.6 the instruction is a "stop loss" instruction;
  - 5.1.7 the order type is subject to other requirements, and those requirements have not been satisfied;
  - 5.1.8 the order would require us to act as principal; or
  - 5.1.9 we may reasonably need to protect our interest (for example to manage potential conflicts of interest or protect against reputational risk).
- 5.2 We or any Trading Participant may, in our or their absolute discretion, amend or cancel any executed transaction, if we and/or any Trading Participant have reasonable grounds to believe the transaction:
    - 5.2.1 appears to have been executed in error;
    - 5.2.2 breaches Applicable Laws; or
    - 5.2.3 negatively impacts or interferes with the integrity or orderly nature of the market in any way.
  - 5.3 You acknowledge and agree that you cannot claim any compensation from us in relation to any circumstances described in clauses 5.1 and 5.2 of this Part B (Trading Services) above even if you receive a contract note relating to the cancelled transaction.
  - 5.4 Subject to Applicable Laws, orders may be purged from the relevant Recognised Securities Exchange's trading system without notice to you including, without limitation, where:
    - 5.4.1 an order expires;
    - 5.4.2 a stock is quoted "Ex" (as defined by the relevant exchange's rules) for the purpose of determining an entitlement to shares, an offer to shareholders, a distribution payment or for any other reason;
    - 5.4.3 the price at which an order is entered is deemed to be too far from the prevailing market price;



- 5.4.4 the security has been removed from the relevant exchange; or
- 5.4.5 the relevant exchange determines the order should be purged for any reason whatsoever.

- 5.5 With the exception of orders for International Securities, you agree that we will not re-enter into the trading systems any orders purged from the exchange without your further instruction. Orders for International Securities may be re-entered as you have previously arranged with your Adviser.
- 5.6 You acknowledge that if you die or become otherwise incapable of receiving, delivering or transferring Securities that you have ordered and we have no knowledge of anyone legally authorised to complete such purchases or sales on your behalf, we are entitled to arrange, with the relevant exchange's approval, to resell or repurchase, any outstanding Securities and you or your estate shall be entitled to any surplus, and be liable for any deficiency.

## 6. Allocation policy

- 6.1 We will attend to instructions and orders from Clients to purchase or sell Securities in the order in which they are received and entered into our trading system. On some occasions we may transfer Securities purchased on your behalf into a pool account before they are allocated to your Account. In such cases, Securities are allocated at our discretion, or at the discretion of any Trading Participant we appoint, having regard to:
  - 6.1.1 our (and the Trading Participant's) overriding obligation to act in the best interests of our (and the Trading Participant's) Clients;
  - 6.1.2 the size of each order comparative to any other orders;
  - 6.1.3 the nature of the instructions or discretion given to the relevant Trading Participant;
  - 6.1.4 the time each order was received;
  - 6.1.5 the nature of the market for the Securities to be allocated (particularly volume and price volatility); and
  - 6.1.6 such other relevant factors as we and/or our Trading Participant may consider appropriate at the time.

## 7. Bringing orders to market

- 7.1 Unless you instruct otherwise in writing, we may put your orders to market in such manner as is considered appropriate having exercised this discretion with care. This means we may:
  - 7.1.1 accumulate or bundle orders coming to market;
  - 7.1.2 delay executing client orders; or
  - 7.1.3 delay orders to satisfy crossings.

At any time, you may instruct us in relation to a particular order or generally as to how you wish your order(s) to be implemented.

## 8. Clearing and settlement of trades – NZX disclosures

- 8.1 As a Clearing Participant, Hobson Wealth will carry out the clearing and settlement of trades you place through us in accordance with the Clearing & Settlement Rules and the Depository Rules. Our main telephone number is +64 9 363 8700 and our main business address is Level 4, Australis Nathan Buildings, 37 Galway Street, Britomart, Auckland.
- 8.2 Under the Clearing & Settlement Rules:
  - 8.2.1 the Clearing and Settlement Terms of each trade will be novated in accordance with the Clearing & Settlement Rules with the effect that we, as Clearing Participant, will become principal in the resulting relevant settlement transaction and take on all of the Clearing and Settlement Terms for that settlement transaction; and
  - 8.2.2 you agree to this novation pursuant to, and on the terms and conditions provided for under, the Clearing & Settlement Rules to the full extent required by law.
  - 8.2.3 your rights and obligations in relation to the clearing and settlement of a relevant settlement transaction will be limited to any rights against, or any obligations to, us and you will not have any rights against, or obligations to, us or CHO in relation to the clearing and settlement of the relevant settlement transaction.
  - 8.2.4 CHO's, CDO's, the Depository Nominee's, New Zealand Clearing and Depository Corporation Limited's and NZX's liability to any person (including you or the Client) is limited or excluded by, and is subject to, the provisions of Section 8 of the Clearing & Settlement Rules and Section 9 of the Depository Rules.
  - 8.2.5 you grant us at all times, full and exclusive rights, power and authority to bind you under the Clearing & Settlement Rules and to authorise the application of your Client Assets in accordance with Rule 18.10 of the NZX Participant Rules.
  - 8.2.6 you may not assert against CDO or the Depository Nominee or any person acting on behalf of CDO or the Depository Nominee (or both of them), any proprietary, equitable, contingent, future or partial interest in any funds or securities held in a Settlement Account or a Depository Account.
  - 8.2.7 as set out in clause 8.1 of this Part B (Trading Services) above, it is intended that we will be the Clearing Participant that carries out the clearing and settlement of trades executed for you in accordance with the Clearing & Settlement Rules and the Depository Rules. However, we reserve the right to use a third party Clearing Participant. If we use a third party Clearing Participant, we will advise you on that Clearing Participant's name, telephone number, main business address and any other details that we must advise you under the Participant Rules, Clearing & Settlement Rules and Depository Rules.



## 9. Settlement obligations

- 9.1 You must deposit full payment for all buy orders in our Client Funds Account by no later than midday on the second Business Day after the date of the contract note. Payment may be made by direct credit to our Client Funds Account, be set off from funds held for you in our Client Funds Account or be from an alternative nominated bank account by way of direct debit if we authorise that form of payment.
- 9.2 We are not required to act on your instructions until your payment has cleared and the settlement may be delayed while we await confirmation that the funds have cleared.
- 9.3 Payment of application monies for new issues, initial public offers or placements must be made by the date specified in the terms of the applicable issue, offer or placement. Late settlement may attract a late charge to cover any associated reasonable costs to us, which will be debited to your Account, or may result in your application not being submitted.
- 9.4 We will not release sale proceeds to you or make them available to cover purchases until your CSN and FIN, or HIN and SRN, have been validated (for stocks listed on a Securities Registry) or until we have received and processed completed transfers and share certificates (for stocks not listed on a Securities Registry).
- 9.5 We may direct credit sale proceeds to your nominated bank account or set off sale proceeds against a debit balance in your Account. We will not pay sale proceeds or release other funds belonging to you to any third party.
- 9.6 Your instructions requiring a change of bank account to which sale proceeds may be directed must be in writing, signed by you and contain verified bank account details in a manner acceptable to us and in compliance with all Applicable Laws.
- 9.7 We reserve the right to offset buy and sell trades undertaken on your behalf before settlement with you.
- 9.8 We may suspend or limit your activity on your Account where any amounts are overdue for payment.
- 9.9 You must pay in the currency of the market in which the transaction takes place, unless otherwise agreed.

## 10. Failure to settle

- 10.1 You are liable for any Loss we reasonably incur as a result of your failure to pay in full in respect of purchases by the due settlement date or make good delivery for sales by the due settlement date, including, without limitation, any market operator's fees and interest charges on the outstanding monies calculated from the settlement date.
- 10.2 If you fail to complete a contract or a portion of a contract, or to settle a transaction in accordance with its terms, we may, acting in accordance with Applicable Laws and after making a demand on you, which you have not met, arrange to sell or purchase sufficient Securities, the subject of the contract, to satisfy your settlement obligations, at your risk and expense, including GST and brokerage.

- 10.3 We reserve the right to convert any foreign currency holdings to New Zealand dollars in order to pay any debts you owe us. We will deduct the cost of any such conversion and any additional fees from your funds.
- 10.4 If you fail to supply your CSN, FIN, HIN, SRN or equivalent Security holder number (as applicable) at the time of issuing your instructions to place an order, Hobson Wealth may charge you:
  - 10.4.1 a fee which is a reasonable estimate of our administrative costs;
  - 10.4.2 any Recognised Securities Exchange fail fees; and
  - 10.4.3 other fees we reasonably incur which directly arise from your failure to supply your CSN, FIN, HIN, SRN, or equivalent Security holder number.

## 11. Client Funds Accounts and settlement payments

- 11.1 We will open and maintain one or more separate Client Funds Accounts for our trading Clients, with a bank we designate. The NZX Participant Rules and the Financial Markets Conduct Act 2013 regulate the operation of the Client Funds Accounts.
- 11.2 We will ensure that:
  - 11.2.1 any money properly received from you for Securities purchased or to be purchased is paid directly into the Client Funds Accounts immediately on receipt;
  - 11.2.2 any amount required to be paid into our Client Funds Account that relates to a transaction settled on the clearing house operated by CHO on behalf of a Client shall be paid into the Client Funds Account as soon as possible following the date we receive those funds;
  - 11.2.3 for all amounts required to be paid into our Client Funds Account, but which we receive after the bank's trading hours, we will pay the amounts into the Client Funds Account as soon as possible on the first Business Day following the date we receive those funds;
  - 11.2.4 your Client Assets are held on trust directly for you at all times;
  - 11.2.5 if your Client Assets cannot be held on trust directly for you, your Client Assets are held on trust for us at all times, in which case we will hold our beneficial interest in your Client Assets on trust for you at all times.
- 11.3 We will ensure that your Client Assets are protected from the time of receipt of those funds until:
  - 11.3.1 you have received clear funds from us; or
  - 11.3.2 legal title to the Securities has been registered in your name on the relevant Issuer's Securities Register.

- 11.4 If you have given us an order to purchase Securities, your funds equal to the amount payable by you in relation to that order will be held in our Client Funds Account (for the clearing and settlement of that purchase in accordance with Applicable Laws).
- 11.5 You authorise us to deal with money or Securities held on your behalf through us (or for us to authorise a Trading Participant to deal with money or Securities held on your behalf through us) in order to:
- 11.5.1 reimburse us and/or a Trading Participant for any amount paid in settling the purchase of Securities for your Account including transfer to an account operated by a Recognised Securities Exchange to effect settlements;
  - 11.5.2 pay you in respect of sale of Securities;
  - 11.5.3 pay you funds held on your behalf in the Client Funds Account; or
  - 11.5.4 pay, or reimburse, us for brokerage or any other charge payable by you to us under these Terms and Conditions (including any default interest, late payment charge or penalty charge).

Without limiting the above, you appoint us or anyone appointed by us and each of their duly authorised officers or attorneys severally to be your authorised agent and in your name or otherwise and at your expense to complete, execute and otherwise perfect all agreements and documents and generally to do all other things that we consider reasonably necessary or expedient to:

- 11.5.5 secure payment of all moneys owing to us; and
  - 11.5.6 comply with any Recognised Securities Exchange's legal or other requirements.
- or anything incidental to those matters. In addition, and if requested by us, you agree to sign a power of attorney to give effect to the intentions evidenced by this clause 11.5 of this Part B (Trading Services).
- 11.6 We are not able to pay you in cash. We will only pay you directly to a bank account in your name.
- 11.7 In connection with the settlements, you may also authorise us to direct credit into or withdraw funds from your nominated bank account by completing the relevant direct debit application form.
- 11.8 You will be liable for any fees incurred due to the failure of a direct debit transaction.
- 11.9 Client Funds Accounts are non-interest bearing and you will not earn interest on the funds held in the Client Funds Account.
- 11.10 If we cease to carry on business as a market participant (for the purposes of the NZX Participant Rules) and we are unable to honour our Outstanding Obligations, all Client Assets will be held as a pool of unallocated assets for Clients to whom we have Outstanding Obligations. We will sell the applicable Securities and pay the proceeds, together with funds in our Client Funds Accounts, to Clients pro-rata in relation to the amount we owe our Clients.

## 12. FIN

- 12.1 In relation to NZX trading, you authorise us to retain a record of your FIN for the purpose of settling sell transactions you effect and to ensure transfers have been correctly made into your CSN. We will store your FIN in an encrypted form in the platform we use. You acknowledge that by retaining a record of your FIN, we will have unlimited access to your Securities and, if your FIN is used or accessed without your authority, there is a risk that your Securities may be transferred out of your name without your authority. We undertake to you that we will at all times while we hold your FIN use reasonable endeavours to protect your FIN from unauthorised use and/or access and also undertake to you that we will procure that any platform provider we appoint will undertake to you that they will store your FIN in encrypted form and will at all times protect your FIN against unauthorised use and/or access.
- 12.2 We may require completed transfers and scrip for transactions regarding stocks not listed on Securities Registry prior to placing the order.

## 13. Principal trading

- 13.1 You acknowledge that:
- 13.1.1 we and our related bodies corporate may deal in Securities on a Recognised Securities Exchange as principal; and
  - 13.1.2 in certain circumstances permitted under Applicable Laws, we and our related bodies corporate may (either acting for another Client or on our own account) enter into the opposite position in a Securities transaction with you, as principal.
- 13.2 You consent to us and our related bodies corporate entering into such a transaction with you.

## 14. Additional limits on our liability

- 14.1 We are not liable for any financial consequence or inconvenience arising from circumstances where:
- 14.1.1 we and/or any Trading Participant we appoint uses our or their discretion to cancel a transaction or refuse(s) to accept your instructions in accordance with these Terms and Conditions; or
  - 14.1.2 the NZX, an Australian Exchange, or any other market operator or regulator uses its power to amend or cancel a transaction.
- 14.2 You acknowledge that we are not liable for any Loss that you incur as a result of a currency conversion undertaken on your behalf in order to meet your settlement requirements for foreign Securities orders, except where such Losses directly result from our gross negligence, fraud or dishonesty.

## Part C: Custody Services: Hobson Portfolio Service and International Custody

### 1. Appointment of Custodian

- 1.1 Part C (Custody Services) of these Terms and Conditions apply to our provision of Custody Services.
- 1.2 Where you use the Hobson Portfolio Service, or wish to invest in International Securities, we will at all times appoint one or more custodians to hold those Securities under those Services. For this purpose, we have appointed the Custodian as Bare Trustee for both our International Custody service and our Hobson Portfolio Service. You agree to that appointment.
- 1.3 The Custodian's only activities are to hold Custody Securities on behalf of Clients and accordingly the Custodian has contracted Hobson Wealth as the Custodian's agent to provide any services required for the Custodian to act as custodian or otherwise meet obligations to Clients. The Terms and Conditions in this Part C (Custody Services) are binding on both Hobson Wealth and the Custodian, and are enforceable at the request, and for the benefit, of the Custodian for the purposes of Part 2 of the Contract and Commercial Law Act 2017.
- 1.4 The Custodian will either hold Securities directly or, at its discretion, through a sub custodian.
- 1.5 The Custodian may, in its sole discretion, refuse to accept delivery of any Security or to continue to hold any Security in which case the Custodian will advise you of that refusal (and, where applicable, will re-deliver Custody Securities to you).
- 1.6 As against the Custodian, you are entitled to the Securities, subject to the Custodian having a Security Interest over the Custody Securities and monies held on your behalf to secure any expenses, outlays or fees the Custodian incurs, pays or charges in accordance with these Terms and Conditions.
- 1.7 The Custodian holds Securities and monies in its custody:
  - 1.7.1 by a sub custodian appointed by the Custodian or a nominee company controlled by a sub custodian appointed by the Custodian; or
  - 1.7.2 in a pooled account, with your individual holdings identified in the Custodian's records and reflected in your reporting.
- 1.8 Our appointment of a custodian does not apply to other services we may provide from time to time (except to the extent provided in these Terms and Conditions), including, for example, for any financial advice and/or investment planning services we may provide in respect of interests in a managed investment scheme (where the assets in a managed investment scheme may be held by an independent custodian for the relevant scheme).

### 2. Custodian to act as agent

- 2.1 The Custodian will hold all relevant Custody Securities and Documents on your behalf and will only deal with the Custody Securities and Documents as permitted by these Terms and Conditions, where required by Applicable Laws or in accordance with your or your Authorised Person's instructions.
- 2.2 The Custodian will act as agent for you to:
  - 2.2.1 accept Documents deposited with the Custodian on your behalf, with the Custodian holding any Documents so deposited at your risk;
  - 2.2.2 register in the Custodian's name (or in the name of the Custodian's nominee) Custody Securities transferred to you as Bare Trustee for and on your behalf; and
  - 2.2.3 acquire, dispose of and deal with the Custody Securities and Documents and any derivatives of either of them; and
  - 2.2.4 undertake corporate actions in relation to the Custody Securities and Documents including (but not limited to):
    - (a) where you instruct us in writing within any required timeframe, to exercise rights over Custody Securities the Custodian holds on your behalf (for example, voting rights, including voting by proxy);
    - (b) at our discretion, to notify you about, and, where you instruct us in writing within any required timeframe, to action any relevant corporate actions relating to Custody Securities the Custodian holds on your behalf (including, for example, bonus issues, rights issues and other issues or offers); and
    - (c) to receive, collect and hold income, entitlements and payments in respect of the Custody Securities.
- 2.3 You authorise the Custodian to execute any documents (including, without limitation, certificates of ownership, affidavits or declarations) or undertake any action reasonably necessary (in the Custodian's opinion) or as required by Applicable Laws in connection with any Custody Securities held on your behalf or the provision of the Custody Services.
- 2.4 You authorise the Custodian in relation to any Custody Securities, without any need for further express instructions, to:
  - 2.4.1 surrender Custody Securities in temporary form for Custody Securities in definitive form;
  - 2.4.2 endorse for collection cheques, drafts and other negotiable instruments; and
  - 2.4.3 in general attend to all non-discretionary details in connection with the sale, exchange, substitution, purchase, transfer and other dealings with the Custody Securities.



### 3. Risk warning

- 3.1 You acknowledge that:
  - 3.1.1 an Issuer may cancel or reverse corporate actions (in some cases after considerable time has passed since the corporate action), and you may be liable to return Securities or repay monies received in connection with any such cancelled or reversed corporate action; and
  - 3.1.2 Custody Securities may be held in a pooled account and in certain circumstances this can mean that you may not benefit from certain corporate actions to the same extent that you might have benefited had the Custody Securities been registered in a separate parcel; for example, a rights issues where each separately registered shareholder has an equal right to participate, regardless of the total number of shares held by each shareholder.

### 4. Custodian's responsibilities and rights

- 4.1 In exercising its powers and performing its obligations as set out in this Part C (Custody Services), the Custodian will:
  - 4.1.1 exercise due care in respect of custody of the Custody Securities and Documents;
  - 4.1.2 not be obliged to supervise your investments generally or advise on them;
  - 4.1.3 not be liable for any damage, loss, cost or expense arising from
    - (a) an act or omission of any other person not being the Custodian's employee, servant or agent (although, if within the Custodian's power, the Custodian will provide reasonable assistance to you to seek reimbursement or compensation from such other persons) or
    - (b) from any electronic or mechanical fault or
    - (c) for any act or omission arising from (or notwithstanding) our compliance with Applicable Laws or customary market practices; and
  - 4.1.4 not be liable to you for earnings foregone on monies the Custodian holds for you, except to the extent that the Custodian fails to obey your express and reasonable written instructions.
- 4.2 Notwithstanding that the Custodian holds legal title to the Custody Securities, the Custodian can exercise rights attaching to the ownership of those Custody Securities only on and in accordance with your instructions pursuant to clause 6.5 (Dealing with Securities) of this Part C (Custody Services).

### 5. Custodian's appointment of agents

- 5.1 Subject to its compliance with all Applicable Laws, you acknowledge the Custodian may arrange for, or appoint, or delegate to, any other person to act on its behalf in respect of the Custodian's obligations set out in this Part C (Custody Services) (including, without limitation, sub-custodians). The provisions of these Terms and Conditions will apply to any agents with all necessary modifications.
- 5.2 The arrangement or appointment of another person under clause 5.1 of this Part C (Custody Services) above will be on terms the Custodian, in its absolute discretion, considers appropriate but will not limit the extent of the Custodian's obligations to you as set out in this Part C (Custody Services).

### 6. Dealing with Securities

- 6.1 On receipt of a written request from you, the Custodian will, subject to any Security Interest it may have, arrange the transfer of any Custody Securities held on your behalf to you or to any other person at your direction.
- 6.2 You acknowledge that the Custodian may, in its discretion, refuse to accept instructions to trade or deal with any Custody Securities within three Business Days of any previous trade or dealing by you of those same Custody Securities or any applicable period required for the clearance of that previous trade or dealing.
- 6.3 The Custodian will give you half yearly reports, containing information required by Applicable Laws and as agreed by you and the Custodian. The Custodian will give you the half yearly reports within 20 Business Days of the end of the period to which they relate.
- 6.4 The Custodian will also give you an end of financial-year summary of income and dividends, including resident withholding tax, imputation credits, withholding tax and management fees. The Custodian will give you end of financial-year reports within 40 Business Days of the end of the period to which they relate.
- 6.5 The Custodian is entitled to rely on your or your Authorised Person's instructions in accordance with these Terms and Conditions without having to re-verify any person's identity and authority to instruct at the time we receive the instructions.
- 6.6 The Custodian will maintain appropriate records and registers for the Custody Securities, Documents and your money. In particular, the Custodian will separately identify them in its records and registers, as distinct from other clients' investments the Custodian holds. The receipt, holding and disbursement of Custody Securities is subject to Applicable Laws.



## 7. Special conditions

- 7.1 You will provide the Custodian with the necessary cleared funds to enable settlement of any dealings the Custodian enters into on your behalf. The Custodian will not accept cash from you.
- 7.2 The Custodian may at its discretion charge you a funding fee in respect of that proportion of the required funds not provided, in accordance with the funding deadline until you provide to the Custodian the amount of cleared funds required for settlement.
- 7.3 You are responsible for paying your own costs, fees and charges incurred in connection with the provision of the funding referred to in clause 7.1 of this Part C (Custody Services) above.
- 7.4 You authorise your Adviser to have access to your Account in order to exercise your instructions.
- 7.5 You and the Custodian may agree additional special conditions, if any, forming part of this Part C (Custody Services).

## 8. Indemnity, expenses, fees and charges

- 8.1 You acknowledge that the gross rate of interest paid to you on money held in your Custody Account may reflect a reduced rate from the base rates set and calculated by ANZ Bank. This reflects a commission charged by us to ANZ Bank in respect of your Custody Account. The amount of the commission may depend on the balance of your Custody Account. You consent to us charging ANZ Bank a commission on your Custody Account. Any such commission, including the purpose for which the commission is taken, will be disclosed in the specific arrangements that you enter with us. You may ask your Adviser for further information and current rates of gross interest and commissions.
- 8.2 You are liable for and you indemnify us for and hold us harmless from all Loss we and the Custodian's agents incur directly or indirectly in connection with:
  - 8.2.1 providing you Custody Services (including, without limitation, all transaction expenses and liabilities we reasonably incur in relation to your Custody Securities);
  - 8.2.2 the Custody Securities being registered in the Custodian's or sub-custodian's name; or
  - 8.2.3 you or your Authorised Persons failing wholly or in part to comply with any provision of Part C (Custody Services) of these Terms and Conditions.in each case to the extent that the relevant Loss arises in relation to our proper performance of our obligations to you (and other than as a result of our or the Custodian's agents' gross negligence, fraud or dishonesty).

- 8.3 You will be liable for all taxes, duties, levies, fines and imposts (arising other than as a result of our gross negligence, fraud or dishonesty) we reasonably incur directly or indirectly in connection with the proper performance of our obligations to you or with any of the transactions contemplated in accordance with the provisions of Part C (Custody Services) of these Terms and Conditions relative to you, excluding tax on our general income or profits.
- 8.4 We will not be liable for any Loss suffered that arises in relation to the proper performance of our obligations in providing Custody Services.
- 8.5 In consideration of the performance of our obligations under this Part C (Custody Services), you agree to promptly pay us such fees and charges, together with any GST payable, determined in accordance with the fees and charges as we notify you is due and payable.
- 8.6 The Custodian may at any time increase, amend or vary the fees and/or charges referred to in clause 8.5 of this Part C (Custody Services) above or the basis or method of calculating fees and/or charges and may impose new fees and/or charges subject to providing you with 30 days' prior written notice of the Custodian's intention to do so.
- 8.7 You agree to promptly pay us for all other transaction expenses and liabilities we reasonably incur in relation to the Custody Securities and Custody Services, including:
  - 8.7.1 all brokerage, commissions, fees, taxes, duties and the similar expenses associated with receiving, collecting, holding, and disbursing the Custody Securities; and
  - 8.7.2 any expenses or liabilities incurred at your request.

## 9. Taxation

- 9.1 If it is required to by Applicable Laws, we may deduct withholding tax, any other taxes, duties or the cost of any approved issuer levy from any income or other payment with all applicable laws and regulations of the relevant jurisdiction(s).
- 9.2 If you do not provide us your IRD number, we will deduct resident withholding tax, if any, at the non-declaration rate and remit it to Inland Revenue.
- 9.3 If you are a company, limited partnership, partnership, trust or other entity you must, on request, certify the entity's place of incorporation, principal place of business, residence, control or management, registered office, IRD number, or other information which may affect your status or assessability for taxation purposes in any country.



## 10. Termination

- 10.1 The Custody Services may be terminated by:
  - 10.1.1 mutual agreement between the Custodian and you; and
  - 10.1.2 the Custodian with immediate effect:
    - (a) if you breach any part of this Part C (Custody Services) and do not remedy the breach within the reasonable timeframe we specify; or
    - (b) on the occurrence of an Insolvency Event.
- 10.2 Following the termination of the Custody Services:
  - 10.2.1 the parties will complete all outstanding transactions where reasonably possible;
  - 10.2.2 you will pay all fees and other amounts due to the Custodian (or any associated company of the Custodian) up to and including the date of termination; and
  - 10.2.3 subject to the obligations in clause 10.2.2 of this Part C (Custody Services) above being satisfied and satisfaction of all Applicable Laws or regulatory requirements (including, without limitation, the NZX Participant Rules or the rules of any other relevant Recognised Securities Exchange or market participant), the Custodian will transfer your Custody Securities, Documents and any money held on your behalf to you or any other party as you direct.
- 10.3 You will bear any additional expenses we reasonably incur as a result of any termination or ensuring that prompt delivery of your Custody Securities, Documents or money in accordance with these Terms and Conditions.
- 10.4 Any termination of the Custody Services will not relieve a party from any liability incurred, or obligation undertaken, prior to termination.

## 11. General

- 11.1 You represent and warrant that the Custody Securities are and will remain, free from any charge, encumbrance, lien or Security Interest (except for the Custodian's Security Interest) and that the Custodian may deal with the Securities on the basis that you beneficially own the Custody Securities.
- 11.2 No waiver of, or any consent to any departure by you or the Custodian from, a provision of Part C (Custody Services) of these Terms and Conditions is of any force or effect unless it is confirmed in writing and signed by or on behalf of the party granting the waiver or consent and then that waiver or consent is effective only to the extent to which it is made or given.
- 11.3 The Custodian may suspend the Custody Services if you or the Authorised Persons fail to provide information that is required and authorised under this Part C (Custody Services).

## Part D: Definitions and Interpretation

### 1. Definitions

- 1.1 In these Terms and Conditions:
  - “**Account**” means an account established by us on behalf of a Client, including, where applicable, a Custody Account;
  - “**Adviser**” means a person engaged by us who provides financial adviser services on our behalf;
  - “**AML/CFT Laws**” means the Anti-Money Laundering and Countering Financing of Terrorism Act 2009, or any equivalent law in other jurisdictions, and includes any amending or replacement legislation and regulations under that legislation;
  - “**Applicable Laws**” means the rules, regulations, customs, usages and practices of the relevant New Zealand and Australian legislation and any other relevant overseas jurisdiction, including, but not limited to the Financial Markets Conduct Act 2013, the AML/CFT Laws, NZX Participant Rules, Clearing & Settlement Rules, Depository Rules, NZX Listing Rules, ASIC Market Integrity Rules, any rules governing the operation of NZX, the Australian Exchange and any Recognised Securities Exchange and any other relevant laws, regulations, codes of conduct and procedures, in each case as amended or replaced from time to time and including any regulations under any such legislation. Please ask your Adviser if you want more information about, or a copy of, any Applicable Law;
  - “**ANZ Bank**” mean ANZ Bank New Zealand Limited or its successors or other registered banks.
  - “**Application Form**” means the application form forming part of the Hobson Wealth New Zealand Application Booklet;
  - “**ASIC**” means Australian Securities and Investments Commission;
  - “**Australian Exchange**” means a financial market operated in Australia by a financial market operator who is licensed to operate a financial market in Australia including but not limited to those markets operated by ASX Limited, Chi-X Australia or any other licensed financial market or exchange;
  - “**Authorised Person**” means any person authorised in writing by the Client (either on the Client's Application Form or otherwise by giving us written notice in accordance with clause 10 (Authorised Persons) of Part A (General Terms and Conditions)) to operate the Account on the Client's behalf;
  - “**Bare Trustee**” means that trustee functions are limited to holding assets, settling transactions and acting on the instructions of investors. A Bare Trustee cannot incur any liabilities in its own name or on behalf of investors;
  - “**Beneficial Owner**” means the individual who:
    - (a) has effective control of a customer or person on whose behalf a transaction is conducted; or
    - (b) owns more than 25% of the customer or person on whose behalf a transaction is conducted;
  - “**Business Day**” is a reference to a day we are open for business in the city in which your Adviser is located;



“**CDO**” means New Zealand Depository Limited, including its Board, senior executives, employees, agents, and any person acting under its delegated authority;

“**CHO**” means New Zealand Clearing Limited, including its Board, senior executives, employees, agents, and any person acting under its delegated authority;

“**Clearing & Settlement Rules**” means CHO’s Clearing and Settlement Rules;

“**Client**” means the person or body corporate for whom we establish an Account and may be referred to as “you” in these Terms and Conditions;

“**Client Funds Account**” means our Client Funds Account operated in accordance with all Applicable Laws;

“**Client Assets**” has the meaning assigned to it under the NZX Participant Rules;

“**CRS**” means the OECD Common Reporting Standard for Automatic Exchange of Financial Account Information in Tax Matters (including any associated commentary or other official guidance);

“**CSN**” means your Common Shareholder Number;

“**Custodian**” means Hobson Wealth Custodian Limited (the custodian appointed by Hobson Wealth) or any custodian appointed as such from time to time (as we notify you in writing);

“**Custody Account**” means the ledger or ledgers recording the funds held on your behalf in the pooled deposit facility or facilities we hold and operate in accordance with these Terms and Conditions and all Applicable Laws;

“**Custody Securities**” means Securities the Custodian (or any sub-custodian the Custodian appoints) holds;

“**Custody Services**” means the full custody and international custody services provided in accordance with Part C (Custody Services) of these Terms and Conditions;

“**Depository**” means the depository operated by CDO in accordance with the Depository Rules;

“**Depository Account**” has the meaning assigned to it under the NZX Participant Rules;

“**Depository Nominee**” means the “Nominee” as that term is defined in the Depository Rules;

“**Depository Rules**” means CDO’s Depository Operating Rules, as amended from time to time by CDO;

“**Documents**” means any documents evidencing your title to the Securities;

“**FATCA Laws**” means the Foreign Account Tax Compliance provisions of the Hiring Incentives to Restore Employment Act 2010 (US) (including any associated regulations or other official guidance, an intergovernmental agreement or relevant commentary);

“**FIN**” means an alphanumeric identifier issued by NZX, an Issuer or a Securities Registry, to a Security holder that provides authority to access the shareholder’s account at the Securities Registry;

“**FinClear**” means FinClear Pty Limited (FinEx’s parent entity), an ASX Clearing Participant;

“**FinEx**” means FinClear Execution Limited, an ASX Market and Account Settlement Participant;

“**GST**” means any tax in the nature of goods and services tax, consumption tax, supply or valued added tax, sales tax, turnover tax, services tax or any similar tax which is levied in any jurisdiction;

“**HIN**” means your Holder Identification Number;

“**Holder**” means a person registered as the legal owner of Securities in a holding;

“**Insolvency Event**” means where any of these events happen to you:

- (a) an application is made to a court for an order appointing a liquidator or interim liquidator in respect of your affairs, or one of them is appointed, whether or not under an order, by shareholder resolution or otherwise;
- (b) you enter into, or resolve to enter into, a scheme of arrangement, deed of company arrangement or composition with, or assignment for the benefit of, all or any class of your creditors, or you propose a reorganisation, moratorium or other administration involving any of them;
- (c) a trustee, receiver, or similar official is appointed over your assets;
- (d) any step is taken, or a proposal is made, for your dissolution or you cease, or threaten to cease, to carry on your business;
- (e) you are, or you state that you are, insolvent;
- (f) you are, or you make a statement from which it may be reasonably deduced that you are unable to pay your debts when they fall due, or are presumed unable to pay your debts under any law (including, in particular, section 287 of the New Zealand Companies Act 1993);
- (g) any step is taken, or recommendation made, to appoint a statutory manager under the Australian Corporations (Investigation and Management) Act 1989;
- (h) you take any step to obtain protection, or are granted protection, from your creditors, under any applicable legislation, or an administrator is appointed;
- (i) if you are a natural person, you commit an act of bankruptcy under the New Zealand Insolvency Act 2006 or action is taken which could result in that event;
- (j) a charge, encumbrance, lien or security interest over any asset becomes enforceable; or anything analogous or having a substantially similar effect to any of the events specified above happens under the law of any applicable jurisdiction;

“**International Custody**” means our service for the custody of International Securities.

“**International Securities**” means any Security traded on a Recognised Securities Exchange other than an Australian Exchange or the NZX.

“**Issuer**” means any person who is or has been listed on a market provided by NZX or a Recognised Securities Exchange and, where applicable, may include all members

(other than another listed entity or a subsidiary thereof) of any group and/or other entities of which the Issuer is the holding company or in which the Issuer otherwise has a controlling interest;

“**Loss**” means any loss, liability, damages, cost, fees or expense, including legal costs, incurred on any basis;

“**Hobson Wealth**” means Hobson Wealth Partners Limited, including its Board, senior executives, employees, and any person acting under its delegated authority;

“**NZX**” means the NZX Limited and the securities markets in New Zealand it operates;

“**NZX Participant Rules**” means the NZX Participant Rules as amended from time to time;

“**Recognised Securities Exchange**” has the meaning given to that term in the NZX Participant Rules;

“**Regulatory Body**” means the New Zealand Financial Markets Authority, the NZX, Recognised Securities Exchanges and other government and regulatory bodies in New Zealand or overseas involved in the application or enforcement of Applicable Laws;

“**Securities**” means securities including, without limitation, “securities” as defined by the New Zealand Financial Markets Conduct Act 2013;

“**Security Interest**” has the meaning given to it under section 17 of the New Zealand Personal Property Securities Act 1999;

“**Securities Registry**” means a company, organisation or firm that is appointed by an Issuer to maintain its Securities registers and that is able to access the electronic system used to transfer title to enable that company, organisation or firm to register the transfer of Securities of that Issuer;

“**Services**” means the services provided by us to Clients from time to time;

“**SRN**” means your Shareholder Reference Number assigned to each parcel of Securities held as an Issuer sponsored holding (being a parcel of Securities registered and held in an uncertificated manner and for which the relevant Securities Registry administers the register of holdings and stock movements);

“**Terms and Conditions**” means terms and conditions outlined in this application booklet;

“**Trading Day**” means a day determined by ASIC, an Australian Exchange, NZX or any other recognised exchange (as the case may be) to be a trading day and notified to market participants being a day other than:

- (a) a Saturday, Sunday, New Year’s Day, Good Friday, Easter Monday, Christmas Day, Boxing Day; and
- (b) any other day which ASIC, an Australian Exchange, NZX or any other relevant exchange declares and publishes is not a trading day;

“**Trading Participant**” has the same meaning as given to that term in the NZX Participant Rules but also includes equivalent designations by other Recognised Securities Exchanges (including, for example, an ASX trading participant that facilitates trades on our behalf (acting as agent for Clients));

“**Website**” means our website at [www.hobsonwealth.co.nz](http://www.hobsonwealth.co.nz) or such other URL as we notify to customers;

## 2. Interpretation

- 2.1 In these Terms and Conditions unless the context indicates a contrary intention:
  - 2.1.1 “we”, “us”, “our” and “Hobson Wealth” refer to Hobson Wealth Partners Limited and related companies (as defined in section 2(3) of the Companies Act 1993);
  - 2.1.2 “you” and “your” refer to the Client and/or any person carrying out transactions on the Client’s behalf (for example, a person to whom the Client has granted third party access) and any action carried out by any person on your behalf are deemed to be done by you for the purposes of these Terms and Conditions;
  - 2.1.3 capitalised terms that are not defined in clause 1.1 of this Part D (Definitions and Interpretation) have the same meaning as they do in the NZX Participant Rules or the Clearing & Settlement Rules;
  - 2.1.4 a reference to these Terms and Conditions or to any deed, agreement, document or instrument includes respectively these Terms and Conditions or that deed, agreement, document or instrument as amended, novated, supplemented, varied or replaced from time to time;
  - 2.1.5 a reference to any statute, rule or other law, or to any sections or provisions thereof includes any statutory modification or re-enactment or any statutory provision substituted therefore and all ordinances, by-laws, regulations and other statutory documents issued thereunder;
  - 2.1.6 the singular includes the plural and vice versa;
  - 2.1.7 the word “person” includes a firm, a body corporate, an unincorporated association and a statutory authority;
  - 2.1.8 a reference to any party includes a reference to that party’s executors, administrators, successors, substitutes and permitted assigns and any person taking by way of novation;
  - 2.1.9 a reference to anything (including, without limitation, any amount) is a reference to the whole or any part of it;
  - 2.1.10 where any word or phrase is given a defined meaning, any other part of speech or other grammatical form in respect of the word or phrase has a corresponding meaning;
  - 2.1.11 headings are inserted for convenience only and do not affect the interpretation of these Terms and Conditions; and
  - 2.1.12 a reference to a clause or a schedule is, unless the context otherwise indicates, a reference to a clause or a schedule in these Terms and Conditions.



## For more information

[hobsonwealth.co.nz](http://hobsonwealth.co.nz)

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