

**PRIMARYMARKET LIMITED ACN 136 368 244 - INTERMEDIARY MEMBER AGREEMENT**

**Standard Terms and Conditions**

These Standard Terms and Conditions form the terms and conditions of an agreement by the person who, or by a duly authorised director or other representative of that person, has ticked or otherwise marked the box on the PrimaryMarkets webpage styled “*Become a Member*” in the manner therein prescribed and thereby evidenced that person’s agreement to become an Intermediary Member.

Pursuant to such agreement, the Intermediary has, inter alia, irrevocably acknowledged that PrimaryMarkets has been instructed by Seller Members to carry out Introductions to potential buyers of Seller’s Asset(s) through publications and advertisements on the Website as contemplated under this Agreement in consideration for the payment by the Seller Member of the Introduction Fee, expenses and any other monies as set out below and otherwise in accordance with PrimaryMarkets’ Terms and Conditions of Use, Declaration and Privacy Policy..

**Definitions**

The following terms are intended to have the following meanings for the purpose of this Agreement including these Standard Terms and Conditions:

- (a) **Act** means Corporations Act 2001 (Cth);
- (b) **Agreement** means this Intermediary Member Agreement including these Standard Terms and Conditions, as varied from time to time;
- (c) **Asset** means any asset, including without limitation, investments and securities, whether issued, or investments and securities to be issued, by the Seller Member, being listed by the Seller Member on the Website or otherwise promoted for sale or dealing with, and for the sake of clarity includes an Unlisted Asset;
- (d) **associate** has the meaning ascribed to it in the Act;
- (e) **Buyer** means a person who has completed an agreement or agreements with PrimaryMarkets that in doing so, qualified that person as a Buyer Member of PrimaryMarkets and includes any Related Body Corporate, any Related Person any Related Entity or associate of any of the foregoing persons;
- (f) **Class Order** means ASIC Class Order 02/0273 and any variation or extension thereof;
- (g) **Client** means the clients/customers (if applicable) of the Intermediary and/or of any of their Related Bodies Corporate and Related Persons;
- (h) **Corporations Regulations** means the Corporations Regulations, 2001 (Cth);
- (i) **Declaration** means a declaration in relation to, and as referred to in, the Class Order as published on the Website;
- (j) **Director** means a director of an Intermediary at any time and from time to time;
- (k) **Excluded Party** means a Buyer who is a Wholesale Client;
- (l) **Financial Product Advice** has the meaning given to that term in subsection 766B(2) of the Act;
- (m) **Indemnified Party** means any one of PrimaryMarkets and each of its Related Bodies Corporate and Related Persons and **Indemnified Parties** means all of the foregoing;

- (n) **Intermediary** means a person who has completed an agreement or agreements with PrimaryMarkets that in doing so, qualified that person as an Intermediary Member of PrimaryMarkets and will include any Related Body Corporate, any Related Person any Related Entity or associate of any of the foregoing persons;
- (o) **Intermediary Fee** means the fee payable to the Intermediary in accordance with the provisions of clause 11 and clause 12 below;
- (p) **Introduction** means any introduction of a Seller Member of an Asset to a Buyer Member or potential Buyer of that Asset effected by PrimaryMarkets that facilitates, enables, causes or results in, whether directly or indirectly, the sale of or other dealing in that Asset, including for the sake of clarity, the sale in or other dealing with an Unlisted Asset between a Seller Member and a Buyer Member;
- (q) **Introduction Fee** has the meaning given to that term in the Seller Member Agreement;
- (r) **Member** means an individual or joint Buyer, Seller or Intermediary who or that has completed an agreement or agreements with PrimaryMarkets by doing so, qualified or entitled that person access to and use of the Website and other Introduction services provided by PrimaryMarkets from time to time, and who or that may be referred to in this Agreement as a Buyer Member, Seller Member or Intermediary Member, respectively and the term **Membership** will have a corresponding meaning;
- (s) **Meeting** has the meaning given to that term in the Class Order;
- (t) **Party** means any party to this Agreement and any of their successors or permitted assigns;
- (u) **person** means and includes an individual, body corporate or any other entity that is legally capable to sue or be sued;
- (v) **Personal Advice** has the meaning given to that term in subsection 766B(3) of the Act;
- (w) **PrimaryMarkets** means PrimaryMarket Limited ABN 24 136 368 244 and any Related Body Corporate or Related Person of that company;
- (x) **Publication** has the meaning given to that term in the Class Order;
- (y) **Recommendation** has the meaning given to that term in subsection 766B(6) of the Act;
- (z) **Related Body Corporate** has the meaning ascribed to it in the Act;
- (aa) **Related Entity** has the **meaning** ascribed to it in the Act;
- (bb) **Related Person** means any one of a relevant party's directors, officers, employees, servants, agents, consultants or advisors;
- (cc) **Seller** means a person who has completed an agreement or agreements with PrimaryMarkets that in doing so, qualified that person as a Seller Member of PrimaryMarkets and will include any Related Body Corporate, any Related Person or any Related Entity or associate of any of the foregoing persons, who is an owner (sole or joint), a trustee, a beneficiary, an administrator or an executor (as applicable) of an Asset as listed by any of the foregoing on the Website;
- (dd) **Seller Member Agreement** means the agreement entered into between PrimaryMarkets and the Seller that in doing so, qualified that person as a Seller Member of PrimaryMarkets;
- (ee) **Unlisted Asset** means an Asset that is not listed on the Website;

- (ff) **US Person** has the meaning given to that term in the United States Securities Act of 1933, as amended;
- (gg) **Website** means the website of PrimaryMarkets;
- (hh) **Wholesale Client** means a person or entity who or that is any one of:
- (i) a wholesale client as defined within section 761G of the Act;
  - (ii) a person to whom an offer of securities is being made and which offer satisfies the requirements of subsection 708(10) of the Act, to the satisfaction of PrimaryMarkets;
  - (iii) a holder of an Australian Financial Services Licence (including a Retail Broker);
  - (iv) an investor who satisfies the requirements of subsections 708(8) or 708(11) of the Act; or
  - (v) a person to whom a disclosure document is not otherwise required to be given under Chapter 6D of the Act.

## **Representations and Warranties**

1. The obligation of PrimaryMarkets to perform all or any of the obligations or discharge any or all of its liabilities that would otherwise result from its entry into, or performance of any act pursuant to the terms and conditions of this Agreement, is and will remain conditional upon the Intermediary:
- (a) warranting, representing and undertaking to PrimaryMarkets that the Intermediary, to the extent relevant and applicable:
    - (i) has complete and sufficient authority and power to enter into, execute, deliver and perform its obligations under this Agreement;
    - (ii) by performing any of the acts or proposed acts of the Intermediary required to be performed pursuant to the provisions of this Agreement, or any other acts that are performed, will not breach or infringe any law or regulation including without limitation, of the Act, of the Class Order or of any Corporations Regulations in relation to the conduct of the business activities of the Intermediary or PrimaryMarkets;
    - (iii) in conducting any purchase or investigation in relation to the possible acquisition of any Asset (whether as principal or for or on behalf of a Client), will not contravene or be required to contravene any agreements to which it is a party or any law or regulation including without limitation, of the Act, of the Class Order or of any Corporations Regulations in relation to the conduct of the business activities of the Intermediary or PrimaryMarkets;
    - (iv) will fully comply with all relevant legislation in relation to the conduct of the affairs of the Intermediary and PrimaryMarkets in the course of performing any and each of its obligations and liabilities under the terms and conditions of this Agreement including, but not limited to, the Act, the Class Order and any Corporations Regulations;
    - (v) has and will have procedures in order to ensure continued compliance with the requirements of all applicable Australian and overseas laws and will maintain and operate those procedures in accordance with their requirements;

- (vi) has not and will not engage in conduct that is misleading or deceptive or is likely to mislead or deceive;
- (vii) will keep PrimaryMarkets fully informed at all times and in a timely and complete manner, as to the progress and/or completion of the purchase or sale of any Asset and/or any and all current and future dealings with any Buyer or Seller concerning any Asset for a period of at least 2 years from the date of the first introduction by PrimaryMarkets of any Seller Member or Buyer Member where such Seller Member or Buyer Member or both have been introduced to PrimaryMarkets by the Intermediary;
- (viii) unconditionally agrees and acknowledges that the Intermediary will accept the decisions and actions of PrimaryMarkets, the Buyer Member and the Seller Member under or in respect of an Asset including, but not limited to, amendment of the price or otherwise any terms of sale;
- (ix) unconditionally agrees and acknowledges that these Standard Terms and Conditions constitute the entire agreement between the Intermediary and PrimaryMarkets to the exclusion of all prior warranties, representations, understandings and agreements between the Intermediary and PrimaryMarkets;
- (x) agrees to be legally bound by this Agreement, Terms and Conditions of Use and Privacy Policy that govern the Intermediary's access to and use of the Website and the relationship as between the Intermediary and PrimaryMarkets;
- (xi) will, in performing its obligations and duties under this Agreement comply with, and ensure that all of its respective personnel also comply with, and must not do or omit to do (and must ensure that all of its personnel do not do or omit to do) anything which could cause PrimaryMarkets to breach the Privacy Act 1988 (Cth) (**Privacy Act**) and the Australian Privacy Principles under the Privacy Act in respect of all personal information (as defined in the Privacy Act) (**Personal Information**) that the Member collects, uses discloses and otherwise handles in the course of or in connection with this Agreement or the sale and purchase of any Asset;
- (xii) in relation to an Asset which is a security or other interest which is or may be subject to any of the provisions of Part 6D.2 or Chapter 7 of the Act then the Intermediary:
  - (A) unconditionally agrees and acknowledges that PrimaryMarkets is an Introduction service (through means that include Publications and advertisements on the Website) in accordance with the Class Order and a Corporate Authorised Representative under an Australian Financial Services Licence (particulars of which are provided on the Website);
  - (B) shall do all acts in its own right and as may be requested by PrimaryMarkets to ensure that neither the Intermediary nor PrimaryMarkets breaches the provisions of the Act including without limitation both Part 6D.2 and Chapter 7 of the Act and the requirements and conditions of any Corporations Regulations or the Class Order and the requirements and disclosures required or disallowed for Meetings (within the meaning of that term in the Class Order);
  - (C) unconditionally agrees and acknowledges that, in relation to any listing of an Asset on the Website that requires a Buyer to

be accredited as a Wholesale Client, if a Buyer Member introduced to a Seller Member by the Intermediary or PrimaryMarkets is not yet accredited as a Wholesale Client then the Intermediary Member undertakes that it will not complete, or facilitate or assist any undertaking or completing, of any sale or other dealing in the Asset with such Seller Member, including without limitation the entry into of any formal documentation in relation to a transaction of the Asset, until the Buyer Member is accredited as a Wholesale Client and the Intermediary undertakes that it will use its best endeavours to promptly procure the Buyer Member to sign all documents, do all acts and provide all necessary documentation to PrimaryMarkets and/or the Seller Member to ensure that the Buyer Member becomes accredited as a Wholesale Client either (or both) prior to the Buyer Member dealing in the Asset and/or immediately upon receiving a direction of or request from PrimaryMarkets to do so;

- (D) undertakes that it will have read and understood the content of any Declaration, prior to the completion of any sale or other dealing in the Asset, including without limitation the entry into of any formal documentation in relation to a transaction of an Asset; and
  - (E) unconditionally agrees and acknowledges that its consideration of Assets offered by the Seller Member and the entry into any subsequent negotiations and transactions with a Buyer Member has been undertaken in accordance with and reflects the Declaration; and
  - (xiii) the Intermediary is entitled to be paid the fee as specified in this Agreement pursuant to compliance by the Intermediary with any regulation or legislative regime that requires disclosure of the Intermediary's fee entitlement as specified hereunder to each of the Seller and/or Buyer that the Intermediary has introduced to PrimaryMarket in relation to the Asset; and
  - (xiv) unconditionally agrees and acknowledges that PrimaryMarkets has entered into this Agreement in reliance on the representations, warranties, acknowledgements and undertakings given by the Intermediary in these Standard Terms and Conditions; and
- (b) undertaking to and in favour of PrimaryMarkets that it will when required to do so by PrimaryMarkets:
- (i) keep PrimaryMarkets informed, in a timely and complete manner, of any and all material changes to any Buyers' position as a Wholesale Client where a Buyer has been introduced to PrimaryMarkets by the Intermediary;
  - (ii) not refer to PrimaryMarkets in any publication, advertisement or document (whether in written, verbal, electronic or any other form) to be distributed to third parties (other than its Clients) without PrimaryMarkets' prior written consent; and
  - (iii) use its best efforts and apply any and all necessary time and other resources in order to provide responses satisfactory to any Buyer or Seller in regard to any Asset that the Seller has listed on the Website and/or any Unlisted Asset.

2. In relation to any Asset listed or that is proposed to be listed on the Website or any Unlisted Asset the Intermediary agrees and acknowledges that:
  - (a) subject to the provisions of clause 2(b) and clause 2(c), the description, proposed sale price (if any) and proposed terms and conditions (if any) of any proposed sale of that Asset have been determined by the Seller and may be varied and/or amended from time to time without notice in the Seller's total discretion;
  - (b) the sale price and other terms and conditions of the sale of an Asset will be finalised between the Seller and the Buyer in due course;
  - (c) without derogating from the responsibilities and obligations of the Seller under the Seller Member Agreement, PrimaryMarkets at all times has the right to amend and/or adjust, at PrimaryMarkets' absolute discretion, any and all disclosures and descriptions in relation to the Asset for and on behalf of the Seller in order to ensure or seek to ensure PrimaryMarkets', the Seller's and/or any other person's compliance with any law, including the Act and the Corporations Regulations, regulation or direction of a regulatory body, and further including without limitation the right to remove names, logos and/or trademarks, to filter, amend, redact, and/or summarise any details or descriptions provided by the Seller under clause 2(a) above;
  - (d) the Intermediary must immediately inform PrimaryMarkets if the sale price for an Asset is likely to be greater than A\$5,000,000 (whether prior to executing transaction documentation or upon so doing with a Seller);
  - (e) the Intermediary must immediately inform PrimaryMarkets if the sale price finally agreed upon between the Seller and the Buyer is greater than A\$5,000,000; and
  - (f) the offer and/or sale of the Asset will not be made pursuant to a prospectus or disclosure document that is or is required to be compliant with the provisions of Part 6D.2 of the Act.
3. By entering into this Agreement and becoming an Intermediary Member, the Intermediary irrevocably warrants to and agrees with PrimaryMarkets that:
  - (a) all information disclosed to the Intermediary, a Buyer or a Seller on the Website or otherwise by PrimaryMarkets, including without limitation the identity of potential Buyers and Sellers, and/or by an Intermediary, a Buyer or a Seller in connection with any Introduction (and subsequent buying and selling) of an Asset is strictly confidential and must be kept confidential by the Intermediary;
  - (b) PrimaryMarkets has not provided, will not provide and is not required to provide, the Intermediary (nor the Intermediary's Client(s) whether a Buyer or a Seller) with Financial Product Advice, Personal Advice or any Recommendation;
  - (c) the Intermediary acknowledges that PrimaryMarkets does not make and will not operate a market (as defined and described in section 766D of the Act) in relation to any Asset;
  - (d) the Intermediary agrees to be bound by the Declaration, any Publication and all of the terms and conditions of the Website; and
  - (e) the Intermediary will be taken to have represented and warranted for the benefit of PrimaryMarkets each of the various representations and warranties set out in this Agreement.
4. Notwithstanding anything contained herein to the contrary and without limiting any other remedies available to PrimaryMarkets and without the need for any prior notice to the

Intermediary (written or otherwise), PrimaryMarkets may at any time and for any reason (in its absolute discretion):

- (a) limit, suspend or terminate any one or more or all of:
  - (i) access to the Website and the Intermediary's (and/or your Clients') Membership account(s);
  - (ii) the services of PrimaryMarkets;
  - (iii) the Intermediary's (and/or the Intermediary's Clients') Membership as an Intermediary;
  - (iv) the listing of an Asset on the Website; and
  - (v) any service of seeking and providing Introductions for an Asset, including an Unlisted Asset;
- (b) prohibit access to or use of any PrimaryMarkets' services;
- (c) delay or remove hosted content from the Website;
- (d) take all technical, practical and legal steps to exclude the Intermediary (and/or the Intermediary's Client(s)) and/or any Asset from access to or the use of the Website;
- (e) in appropriate circumstances and at its absolute discretion, suspend or terminate Membership account(s) of any Member including but not limited to Members who may be repeat infringers of intellectual property rights of PrimaryMarkets or any third party ; and
- (f) cancel any Membership for any reason including but not limited to being inactive for a prescribed period of time or to modify or discontinue any PrimaryMarkets services.

## Information

- 5. Any information about the Assets, the Seller or the Buyer provided by a Seller or a Buyer to the Intermediary must not be reproduced or transmitted to or discussed with any other person (other than the Intermediary's Related Persons on a 'need to know' basis) at any time whatsoever without the prior written consent of the Seller or PrimaryMarkets. This clause does not apply to any information which:
  - (a) is generally available to the public (other than as a result of wrongful disclosure); or
  - (b) is required to be disclosed by any law, ASX Listing Rules or any regulatory authority (but only to the extent so required).
- 6. PrimaryMarkets makes no representations or warranties in this Agreement in relation to any Asset, its suitability or otherwise to the Intermediary or the Intermediary's Clients and does not assume any obligations or incur any liabilities under this Agreement in respect of any Assets.
- 7. PrimaryMarkets will be:
  - (a) entitled to rely on and assume that all information provided to it by or on behalf of the Intermediary and all other information that is produced by or on behalf of the Intermediary is true, correct, complete and current;

- (b) entitled to rely upon the accuracy of all financial information, forecasts and other information or representations provided by or on behalf of the Intermediary;
  - (c) under no obligation to verify independently any information or data referred to in paragraph 7(a) or paragraph 7(b) immediately above, as provided to or otherwise obtained by PrimaryMarkets; and
  - (d) under no obligation to determine whether there has been, or to investigate, any change in any such information occurring after the date that it was provided to or obtained by PrimaryMarkets.
8. The Intermediary must immediately notify PrimaryMarkets if and when the Intermediary becomes aware:
- (a) that any financial or other information provided by it, or that was provided on its behalf (whether written or verbal), is not truthful, complete or accurate; and
  - (b) of any and all material changes to any information provided by or on behalf of the Intermediary.

**Excluded Party**

9. The Intermediary unconditionally agrees and acknowledges and irrevocably warrants to PrimaryMarkets that, inter alia, including circumstances where the provisions of either or both Part 6D.2 and Chapter 7 of the Act apply:
- (a) in accordance with the Act, the Website and PrimaryMarkets' Introduction services are made available to the Intermediary and the Intermediary's Clients on the basis that a Buyer is a Wholesale Client;
  - (b) the Intermediary and the Intermediary's Clients who are a Buyer will provide to PrimaryMarkets all duly completed documentation and evidence requested by PrimaryMarkets, including those documents that PrimaryMarkets believes are necessary or prudent, to satisfy PrimaryMarkets' obligations in any manner in relation to Know-Your-Client, Anti-Money Laundering and Counter Terrorism and Financing Australian legislative regime;
  - (c) the Intermediary and the Intermediary's Clients represent and warrant for the benefit of PrimaryMarkets that a Buyer is a Wholesale Client and will provide all documentation and evidence requested by PrimaryMarkets, including those documents that PrimaryMarkets believes are necessary or prudent, to enable PrimaryMarkets to satisfy itself that the Buyer fully qualifies as a Wholesale Client;
  - (d) the Intermediary and the Intermediary's Clients will comply with the requirements of the Act in relation to the Website and any transaction involving an Asset;
  - (e) the Intermediary has the power and authority to enter into and perform its obligations set out in this Agreement and that the performance by the Intermediary of its obligations will not breach any applicable law;
  - (f) the Website is made available to the Intermediary personally and it may only pass on details of an Asset to another person (other than a Client of the Intermediary, the Intermediary's Related Bodies Corporate and/or the Intermediary's Related Persons) with PrimaryMarkets' prior written consent;
  - (g) the Intermediary has made or will make its own enquiries and assessment of an Asset and any Seller;
  - (h) neither a Seller, PrimaryMarkets nor any of their respective Related Persons makes any recommendation to the Intermediary or its Clients as to whether the

Intermediary or the Intermediary's Clients should participate in any transaction in respect of an Asset, nor do they make any representation or warranty to the Intermediary or the Intermediary's Clients concerning the merits of an Asset generally, including but not limited to the value of any Asset or the risks of participating in a transaction with a Seller;

- (i) the Intermediary and the Intermediary's Related Persons have not relied nor will they rely upon:
  - (i) any recommendation from a Seller, PrimaryMarkets or their respective Related Persons and/or Related Bodies Corporate in deciding whether to purchase an Asset or not purchase an Asset; and
  - (ii) any information provided to them by or on behalf of a Seller, PrimaryMarkets or their respective Related Persons;
- (j) before acquiring an Asset, the Intermediary and/or its Clients will consider, with the assistance of independent financial, legal and other advisers, whether the potential acquisition is appropriate for the Intermediary's Clients in light of their particular investment needs, objectives and financial circumstances;
- (k) if the Intermediary or the Intermediary's Clients are ordinarily resident outside Australia, the Intermediary or the Intermediary's Clients are a person to whom an invitation or offer to acquire the Asset is permitted by the laws of the jurisdiction in which the Intermediary or the Intermediary's Clients are ordinarily resident or from where the Intermediary or the Intermediary's Clients accessed the Website and the Intermediary or the Intermediary's Client is a person to whom the Asset can lawfully be offered and purchased under all applicable laws, without the need for any registration or lodgement;
- (l) the Intermediary or the Intermediary's Clients are not ordinarily resident in the United States nor are they a U.S. person (as defined in Regulation S under the U.S. Securities Act (defined below)), or acting for the account or benefit of a U.S. person;
- (m) except for any liability which cannot by law be excluded, neither a Seller nor PrimaryMarkets accepts any responsibility in relation to the Website and any Asset;
- (n) if the Intermediary or the Intermediary's Clients proceed to acquire an Asset the Intermediary or the Intermediary's Clients are making an investment decision based solely on their own investigations of the Asset and the Seller (including in relation to title to and/or ownership of the Asset) and not under reliance in any manner on PrimaryMarkets;
- (o) except in circumstances where PrimaryMarkets relies upon the Class Order, PrimaryMarkets and any person associated with it may:
  - (i) sell or buy an Asset;
  - (ii) have an interest in any Seller or Buyer of any Asset;
  - (iii) have an interest in any other Intermediary Member that may buy or sell or have as a Client any person that buys or sells any Asset,

and in any of the abovementioned circumstances, PrimaryMarkets may be entitled to earn and be paid an Introduction Fee or any other fee or expense, as agreed between PrimaryMarkets and the Seller or other person selling an Asset, arising from the sale of any Asset.

## Fees

10. There are no fees payable by the Intermediary to PrimaryMarkets in respect of the Introductions and any subsequent sale or purchase of any Asset. PrimaryMarkets is entitled to earn an Introduction Fee from the Seller or any other fee, as agreed between PrimaryMarkets and the Seller or other person selling an Asset, from the sale of the Asset.
11. Subject to clause 12 below, where the Intermediary, in the capacity as an Intermediary Member, introduced either the relevant Seller or Buyer in respect of an Asset sold, the Intermediary will be paid after successful completion for the sale of that Asset and after PrimaryMarkets receives its full Introduction Fee(, PrimaryMarkets will thereupon pay to the Intermediary, a fee which equates to 50% of the Introduction Fee (plus the applicable Goods and Services Tax) that PrimaryMarkets has actually received from the relevant Seller (subject to any applicable regulatory licencing or disclosure laws) and further conditional upon such receipt by PrimaryMarkets from the Intermediary of a tax invoice for the appropriate amount addressed to PrimaryMarkets (**Intermediary Fee**).
12. If there is more than one Intermediary Member who solely Introduces to PrimaryMarkets a Buyer for a completed transaction in respect of an Asset (and which follows from that Introduction) then the aggregate Intermediary Fee will be divided and payable to all and any such Intermediary Members in equal portions (plus the applicable Goods and Services Tax), conditional upon receipt by PrimaryMarkets and subsequent delivery by those Intermediaries of a taxable invoice for the appropriate amount addressed to PrimaryMarkets. For the sake of clarity, in all circumstances, PrimaryMarkets will be entitled to retain for its own use, 50% of the Introduction Fee (plus the applicable Goods and Services Tax) that it is entitled to be paid in respect of the transaction of an Asset. In all circumstances, no part of any Introduction Fee will be paid to an Intermediary(ies) where the Seller or Buyer, any Related Body Corporate of the Seller or Buyer or any respective Related Persons is also the Intermediary Member(s) that has duly invoiced PrimaryMarkets in relation the Asset.

## Prerequisites

13. Without limitation to any of the other Standard Terms and Conditions of this Agreement, the Intermediary hereby undertakes to PrimaryMarkets that it will:
  - (a) arrange for the relevant Related Persons of the Intermediary's Clients as the Seller or the Buyer (as applicable) to fully participate in the Introductions (and potential subsequent negotiations and transaction) contemplated under this Agreement;
  - (b) use its best endeavours to ensure that its Clients as the Seller or the Buyer (as applicable) are continually and fully informed in relation to the Asset; and
  - (c) in relation to an Intermediary Member acting as or for or on behalf of a Buyer Member or any other Intermediary Member, undertake its own due diligence inquiries regarding title, ownership, legal, accounting, regulatory, taxation and any other general, specialist or technical matters on any and all transactions regarding an Asset with the assistance of the Intermediary or the Related Persons and advisers of Intermediary's Client, including without limitation, the assistance of the Directors and senior management of the Intermediary or the Intermediary's Client, to participate in full due diligence inquiries undertaken by the Buyer.

## Using Website and services of PrimaryMarkets

14. Whilst using the Website and services of PrimaryMarkets, the Intermediary irrevocably agrees it will not:
  - (a) post false, inaccurate, misleading, defamatory or offensive content (including personal information) on the Website or content that infringes the rights of third parties, including content that infringes on intellectual property rights such as copyright or trademark;

- (b) breach or infringe any laws, third party rights and/or any policies of PrimaryMarkets;
- (c) vary or amend in any manner any listing or promotion of Assets, whether on the Website or otherwise, without prior consultation with and consent of PrimaryMarkets;
- (d) circumvent or manipulate any aspect of the determination or payment of the Introduction Fee, or any other fees or expenses otherwise payable to PrimaryMarkets under the provisions of this Agreement or any other agreements entered into by PrimaryMarkets with other Members;
- (e) transfer the Intermediary's Member account and user identification details to another party without the prior written consent of PrimaryMarkets;
- (f) distribute or post spam, unsolicited or bulk electronic communications, chain letters or pyramid schemes of any nature on the Website;
- (g) distribute viruses or any other technologies that may harm the Website or the interests or property of PrimaryMarkets, its Members and users;
- (h) copy, modify or distribute rights or content of PrimaryMarkets' copyrights and trademarks; or
- (i) otherwise collect information about PrimaryMarkets Members and/or users including email addresses without their prior written consent.

#### **Content on the Website**

15. When the Intermediary provides PrimaryMarkets with any content, the Intermediary will thereby unconditionally:
  - (a) grant PrimaryMarkets and represent that the Intermediary has the right to grant to PrimaryMarkets, a non-exclusive, worldwide, perpetual, irrevocable, royalty-free right to exercise any and all copyright, trademark, publicity, design, database rights and intellectual property rights that the Intermediary and/or the Intermediary's Client may have in the content in any medium known now or in the future; and
  - (b) waive all moral rights that the Intermediary and/or the Intermediary's Client has or may acquire in that content to the fullest extent permitted by law.
16. For the convenience of all Members, PrimaryMarkets may offer catalogues of stock images, descriptions and product specifications that are provided by third parties (including by any Member). At all times and in all circumstances, the Intermediary hereby agrees and acknowledges that the Seller, and not PrimaryMarkets to any extent or in any circumstances is fully and solely responsible for all content provided by or on behalf of the Intermediary (if any) and for ensuring that all that information is accurate, does not include misleading information and complies with this Agreement and all other PrimaryMarkets policies.
17. The Intermediary agrees and acknowledges that:
  - (a) no Asset will be listed on the Website nor Introduction sought in respect of the Seller of an Asset without the prior written consent of PrimaryMarkets, such consent to be given or withheld at the absolute discretion of PrimaryMarkets;
  - (b) PrimaryMarkets has not:
    - (i) represented, warranted or otherwise stated that there has been or will be any or sufficient interest of a Seller or a Buyer in selling or otherwise

dealing in any Asset of any Seller, nor any of the terms or conditions that may apply to any such proposed sale or dealing;

- (ii) advised or suggested what are or should be acceptable terms or conditions for the sale or other dealing in an Asset; nor
  - (iii) advised or represented that the Website may not also have other assets listed for sale or dealing that are the same as or similar to the Asset of a Seller, and at the same time as the Seller's Asset is listed on the Website;
- (c) the Website may have other assets listed for sale that are the same as or similar to the Asset to which an Introduction has been made, and accordingly PrimaryMarkets does not offer its Introduction services to the Intermediary or its Clients under any actual or implied exclusivity or non-competition arrangement or understanding; and
- (d) PrimaryMarkets may distribute communications and notifications to the Intermediary (electronically or otherwise) and the Intermediary undertakes not to re-distribute or promote such communications and notifications (other than to its Clients) without the prior written consent of PrimaryMarkets.

### **The Website**

18. The Intermediary hereby agrees and acknowledges that:

- (a) there are and always will remain risks when using the Website;
- (b) PrimaryMarkets is not responsible for any other Member's or users' content, actions or omissions;
- (c) PrimaryMarkets is not an auctioneer nor the maker of a marketplace and the Website is merely a venue (which may change from time to time) for providing Introduction services including to allow Seller Members to list Assets on the Website and Buyer Members to view Assets at any time on the Website, and from any location;
- (d) PrimaryMarkets is not a party to or otherwise involved in any actual transaction between a Buyer and a Seller;
- (e) PrimaryMarkets has no control over and does not guarantee or provide any representation or warranty in regard to:
  - (i) the existence, financial performance, suitability, quality, safety or legality of any Asset listed on the Website;
  - (ii) the truth or accuracy of content relating to any Asset listed on the Website;
  - (iii) the ability of any Buyer or Seller to enter into or pay for any proposed transaction; or
  - (iv) whether or not a Buyer or Seller will actually complete a transaction;
- (f) all information available through the Website in relation to an Asset is provided by or on behalf of the Seller of the Asset and PrimaryMarkets has not undertaken an independent review of the information. The information available through the Website is not intended to be the only information on which a Buyer should or could make an investment decision. Detailed additional information may be needed by the Buyer in its absolute discretion;

- (g) when the Intermediary or the Intermediary's Client enters into any formal documentation for a transaction, it thereby creates a legally binding contract between itself and the applicable Buyer or Seller (as applicable), and the Intermediary and the Intermediary's Client must ensure that it complies with its obligations to that Buyer or Seller (as applicable) under the terms and conditions of that documentation;
- (h) if any Member breaches any obligation to the Intermediary, then the Intermediary and not PrimaryMarkets is and will be responsible for enforcing any rights that the Intermediary may have against that Member as a result of that breach;
- (i) the Intermediary alone, and not PrimaryMarkets, is responsible for ensuring that any purchases or any other activities that it conducts, or conducts on behalf of a Client, including on the Website are lawful;
- (j) the Intermediary must ensure that it and the Intermediary's Client complies with all applicable laws in Australia and other countries;
- (k) the Intermediary must ensure that it and the Intermediary's Client strictly complies with all the provisions of this Agreement and the policies which form part of this Agreement;
- (l) PrimaryMarkets does not and will not take ownership of any Asset at any time and does not deal with or transfer legal or beneficial ownership of any Asset or funds from a Seller to a Buyer or vice versa;
- (m) PrimaryMarkets does not guarantee continuous or secure access to the PrimaryMarkets services or the Website which may be interfered with or prohibited by numerous factors, including those outside the control of PrimaryMarkets.

## **Breach**

19. Without limiting other remedies available to PrimaryMarkets at law, in equity or under this Agreement, PrimaryMarkets may, without notice to the Intermediary and at the sole and absolute discretion of PrimaryMarkets, issue an Intermediary with a warning, restrict a Intermediary's activities through the Website (including but not limited to listing and viewing any Asset), temporarily or indefinitely suspend or terminate the Intermediary's Membership with PrimaryMarkets and/or refuse to provide any or all of the services of PrimaryMarkets to the Intermediary, if PrimaryMarkets:
- (a) believes in its absolute, unfettered discretion that either:
    - (i) the Intermediary has breached or failed to perform any of its obligations or duties under the provisions of this Agreement or any PrimaryMarkets' policies; or
    - (ii) it is reasonably likely that any such breach or failure will occur;
  - (b) is unable to verify or authenticate any information that the Intermediary provides to PrimaryMarkets; or
  - (c) believes in its absolute, unfettered discretion that any action or proposed action by or on behalf of the Intermediary has caused or may cause loss or damage to or otherwise unlawfully harm PrimaryMarkets, a Buyer, a Seller, another Intermediary, or any Member or user of the Website or any Related Body Corporate or Related Person of any of the foregoing.
20. For security, confidentiality and privacy reasons, PrimaryMarkets is not obliged to provide the Intermediary or any other Member with the details, outcome or consequences of any

investigation that PrimaryMarkets may conduct or conducts or any action which PrimaryMarkets has taken or may take, in relation to the Intermediary.

### Termination

21. Subject to the provisions of clause 23, the term of this Agreement:

- (a) is for a minimum period that:
  - (i) commences on and includes the date upon which the Intermediary first enters into this Agreement; and
  - (ii) ends on and includes the first anniversary of the date on which the Intermediary first enters into this Agreement (**Minimum Period**); and
- (b) will continue in full force and effect until the date on which this Agreement is terminated in accordance with these terms and conditions (**Termination Date**).

Subject to the provisions of clause 23, on any date after the Minimum Period this Agreement may be terminated by either Party, in accordance with the terms and conditions of this Agreement, notifying the other of the termination of this Agreement (**Termination**).

22. At any time during the term of this Agreement:

- (a) the Intermediary will be entitled to terminate this Agreement by giving written notice to that effect to PrimaryMarkets, upon the occurrence of a material default by PrimaryMarkets under this Agreement. However, if such default is capable of remedy, the Intermediary will not be entitled or permitted to terminate the Agreement until PrimaryMarkets:
  - (i) has received written notice from the Intermediary of all material particulars of such default; and
  - (ii) has failed to remedy that default within the period of thirty (30) days after the date of receipt of such written notice; and
- (b) PrimaryMarkets will be entitled to terminate this Agreement by giving written notice to that effect to the Intermediary.

23. Any Termination effected by a Party will only take effect upon receipt by the other Party of written notice to that effect. The Parties agree that the provisions of this Agreement relating to the obligations to determine and pay the Introduction Fee, and to reimburse legal, out-of-pocket and all other expenses (if any), the indemnification of PrimaryMarkets and all other Indemnified Parties, increases in amounts payable on account of GST and any payments under this Agreement, will remain operative notwithstanding the occurrence of any termination or purported or attempted termination.

### Intellectual Property Rights

24. PrimaryMarkets retains all copyright and all other intellectual property rights:

- (a) in everything it develops or proposes (or is involved in developing or proposing) including, without limitation, its methodologies, systems and know-how;
- (b) in all information and other deliverables provided to the Seller, the Buyer or the Intermediary.

However, the Intermediary will retain its right to use all materials provided by PrimaryMarkets within its own organisation on a 'need to know' basis. If the Intermediary

wishes to disclose the contents of any of those materials to any person independent of its own organisation, it must obtain PrimaryMarkets' prior written consent. The Intermediary consents to PrimaryMarkets disclosing the Intermediary's logos and other similar intellectual property where and when PrimaryMarkets elects for the purposes of assisting in the sale of an Asset or otherwise in accordance with any act or omission of PrimaryMarkets, that is permitted to be taken under the provisions of this Agreement and the Class Order. PrimaryMarkets acknowledges that such use of the Intermediary's intellectual property will not amount to any assignment or transfer of ownership to PrimaryMarkets of any such logos and other similar intellectual property

## Indemnity

25. The Intermediary hereby represents and warrants to PrimaryMarkets that it has and will retain full responsibility and accepts full liability for any use of and matter or thing in relation to any Seller, Buyer and/or Asset introduced to PrimaryMarkets by the Intermediary and in relation to all presentations, documents and/or related marketing materials prepared or provided by the Intermediary or the Intermediary's Clients in the course of or in connection with the Introductions (and subsequent transactions) contemplated under this Agreement (each a **Marketing Document**) or any information or document that accompanies a Marketing Document.
26. The Intermediary irrevocably indemnifies each Indemnified Party and must keep each Indemnified Party wholly indemnified against any and all liability, damages, claims and losses directly or indirectly arising from, and all costs, charges and expenses arising in connection with:
  - (a) an Asset or any matter or activity referred to or contemplated by this Agreement;
  - (b) the issue and use of a Marketing Document or a Publication (or any information or document accompanying the Marketing Document or a Publication);
  - (c) the making of and use of any statement in a Marketing Document or a Publication (or any information or document accompanying the Marketing Document or a Publication) that is or becomes misleading or deceptive or any omission from a Marketing Document or a Publication;
  - (d) any conduct by a person (other than PrimaryMarkets) in connection with the issue and use of a Marketing Document or Publication (or any information or document accompanying the Marketing Document or a Publication) that is misleading or deceptive or likely to mislead or deceive;
  - (e) any conduct by the Intermediary or the Intermediary's Clients in relation to an Asset that is in contravention of any law, regulation or rule including without limitation the Act, and Corporations Regulations or the requirements in the Class Order;
  - (f) any breach or failure by the Intermediary to observe any of the terms and conditions of this Agreement, the Privacy Policy or Website Terms and Conditions of Use, including, but not limited to, the representations and warranties provided therein;
  - (g) any liability of PrimaryMarkets, or any claim that PrimaryMarkets has incurred or will incur, any liability under the Act, any Corporations Regulations, the Class Order or any other law (including, but not limited to, the *Competition and Consumer Act 2010 (Cth)*) in relation to an Asset or the disclosure or promotion of the sale an Asset; or
  - (h) any review or investigation undertaken by the Australian Securities & Investments Commission or any other regulatory authority as a result of an alleged or actual failure to comply with the conditions and requirements the Act, any Corporations

Regulations, the Class Order or any other law (including, but not limited to, the *Competition and Consumer Act 2010 (Cth)*) in relation to an Asset or the disclosure or promotion of the sale of an Asset.

27. Any approval or consent given by PrimaryMarkets does not waive or prejudice the right of an Indemnified Party to the indemnity as stated in these Standard Terms and Conditions and such rights survive the expiry or termination of this Agreement. The Intermediary agrees that PrimaryMarkets holds the benefit of this indemnity on trust for itself and all other Indemnified Parties.
28. PrimaryMarkets disclaims any and all responsibility, whether to the Intermediary or any third party, for any and all claims arising out of information disclosed, disseminated or published by PrimaryMarkets that is based upon, either in whole or in part, any information provided to PrimaryMarkets by or on behalf of the Intermediary, Seller or Buyer which is or becomes misleading, inaccurate or incomplete.
29. If for any reason any or all of the above indemnities are unavailable at law or are otherwise unavailable or insufficient to hold PrimaryMarkets or any other Indemnified Party harmless against any losses which that Indemnified Party is stated to be indemnified for, the respective proportional contribution of the Intermediary and the Indemnified Party in relation to the relevant loss will be as agreed between them, or failing agreement within 10 days after the date of the first attempt to achieve that agreement, as determined by a court of competent jurisdiction having regard to the respective extent and nature of participation or involvement of the Intermediary and the Indemnified Party in connection with the act complained of. Notwithstanding the foregoing, the Intermediary acknowledges and agrees that in no event will the Indemnified Party be required to contribute to any losses which in aggregate exceed the Introduction Fee actually paid to and received by PrimaryMarkets in immediately available funds from the Seller under the relevant Seller Member Agreement in respect of the relevant Asset, less any amount of the Intermediary Fee paid to the Intermediary under the provisions of this Agreement or otherwise.

### **Conduct of Proceedings**

30. Where any legal or other proceedings arise and the Intermediary confirms in writing that an Indemnified Party is indemnified pursuant to these Standard Terms and Conditions, then the Intermediary is and will remain entitled to defend or institute legal or other proceedings at the Intermediary's cost, in the name of that Indemnified Party and those proceedings will be conducted under the management and control of the Intermediary (with reasonable consultation with PrimaryMarkets and any other relevant Indemnified Party), provided that:
  - (a) neither the Intermediary nor PrimaryMarkets has the power to settle, compromise, consent to early judgment in or otherwise seek to terminate any action, suit, proceeding, investigation or claim in respect of which indemnification has or may be sought under these Standard Terms and Conditions without the prior written consent of the other; and
  - (b) such settlement, compromise, consent or termination shall include a release of each applicable Indemnified Party from any liabilities arising out of such action, suit, proceeding, investigation or claim.

### **Limitation of Liability**

31. PrimaryMarkets may assist the Intermediary in the manner set out in this Agreement. However, PrimaryMarkets accepts no liability or responsibility in the event that a transaction involving an Asset does not proceed or the Asset is not received.
32. The Intermediary acknowledges that Introduction services and any other form of assistance as may be provided to it by PrimaryMarkets as detailed in this Agreement will be provided by PrimaryMarkets Limited alone and any recourse of the Intermediary or any third party is to PrimaryMarkets Limited rather than to any Related Body Corporate or Related Person of

PrimaryMarket Limited. PrimaryMarkets will not be liable for any failure or delay in performing or providing any assistance detailed in this Agreement if that failure or delay arises from anything beyond its control including without limitation the untimely performance by an Intermediary, Seller and/or Buyer of any of their respective obligations or duties.

33. If an Intermediary has a dispute with one or more of the Members, the Intermediary hereby irrevocably and unconditionally releases and discharges PrimaryMarkets from and against any and all claims, demands and damages (actual and consequential) of every kind and nature, known and unknown, arising out of or in any way connected with any such dispute.
34. Subject to clauses 31 to 39 (inclusive), PrimaryMarkets is not liable to the Intermediary or to any other person for any direct, indirect, incidental, special or consequential loss or damage, loss of money, loss of profits or anticipated profits, loss of goodwill, economic loss, loss of business opportunity, loss of revenue, loss of data or loss of reputation (whether based in contract, tort (including negligence), statute or otherwise) including any damage that results or arises, directly or indirectly, from any wrongful or negligent act or omission of PrimaryMarkets or out of an Intermediary's use of or inability to use the Website or any services of PrimaryMarkets.
35. Any representation, warranty, condition, term, guarantee, indemnity or undertaking contained in this Agreement that would be implied in or effected by legislation, common law, tort, equity, or by course of performance, dealing, trade, custom or usage is excluded to the maximum extent permitted by law.
36. Nothing in this Agreement excludes, restricts or modifies any consumer guarantee, right or remedy conferred on the Intermediary or its Clients by the Australian Consumer Law, Schedule 2 of the *Competition and Consumer Act 2010 (Cth)* if applicable that cannot be excluded, restricted or modified by agreement.
37. To the fullest extent permitted by law, the liability of PrimaryMarkets for a breach of a non-excludable guarantee referred to in clause 38 is limited to:
  - (a) the supplying of the services again; or
  - (b) the payment of the cost of having those services supplied again.
38. Subject to clauses 31 to 39 (inclusive) and any rights of the Intermediary or its Clients under the Australian Consumer Law, Schedule 2 of the *Competition and Consumer Act 2010 (Cth)*, the maximum aggregate liability of PrimaryMarkets and an Indemnified Party for all proven losses, damages and claims arising out of or in connection with this Agreement or a supply under this Agreement, including liability for breach, in negligence or in tort or for any other common law or statutory action, is limited to the sum of A\$100.
39. Despite any other provision of this Agreement, clauses 31 to 39 (inclusive) survive the expiry or termination of this Agreement.

### **Shares and Securities**

40. Notwithstanding anything contained herein to the contrary above, if the Intermediary is not ordinarily resident in an Australian jurisdiction, ) that Intermediary hereby acknowledges, represents, warrants and agrees (as relevant) for the benefit of PrimaryMarkets that, in respect of any Assets which are shares or any other form of security (**Shares**):

#### United States of America

- (a) The Shares have not been and will not be registered under the United States Securities Act of 1933, as amended (**U.S. Securities Act**) or the securities laws of any of the states of the United States and the Seller has not been and will not be registered under the United States Investment Seller Act of 1940, as amended.

- (b) Direct or indirect acquisition or ownership of such Shares by any US Person without compliance with applicable United States securities laws or in contravention of the relevant provisions of the constituent documents of the Seller is prohibited.
- (c) The Intermediary is not physically residing or otherwise located in the United States, nor a US Person, nor acting for the account of benefit of any person in the United States or a US Person, and understands that the offer and sale to the Intermediary or the Intermediary's Client of the Shares has not been and will not be registered under the U.S. Securities Act, or the securities laws of any state or other jurisdiction in the United States. Therefore, the Intermediary or the Intermediary's Client agrees that the Intermediary will not offer, sell, pledge, transfer or otherwise dispose of any Shares in the United States or to, or for the account or benefit of, any US Person.
- (d) The Intermediary understands that any offer and sale to the Intermediary or the Intermediary's Client of Shares has not been and will not be registered under the US Securities Act, or the securities laws of any state or other jurisdiction in the United States.
- (e) Neither the Intermediary or the Intermediary's nor any of its or their affiliates nor any person acting on its or their behalf has engaged or will engage in any "directed selling efforts" within the meaning of Rule 902 under the US Securities Act or any general solicitation or general advertising in the United States within the meaning of Rule 502(c) under the US Securities Act, in each case with respect to the Shares.
- (f) Neither the Intermediary nor the Intermediary's Client is engaged in the business of distributing securities or, if either the Intermediary or the Intermediary's Client is so engaged, it or they agree or will agree that it or they will not offer or sell in the United States or to U.S. Persons:
  - (i) any Shares that the Intermediary or the Intermediary's Client acquires any time; or
  - (ii) any ordinary shares that the Intermediary or the Intermediary's Client acquires from or in the Seller until 40 days after the date on which the transaction settles, except in both cases in a transaction registered under the US Securities Act or exempt from the registration requirements of the US Securities Act.

#### United Kingdom

- (a) Any offer of Shares is made by the Seller only to potential investors who are qualified investors in the United Kingdom for the purposes of the Financial Services and Markets Act 2000 (**FSMA**) and the FSA Prospectus Rules. In addition, any offer of Shares by the Seller in the United Kingdom is made only to persons in circumstances where it will not constitute the communication of an invitation or inducement to engage in investment activity for the purposes of section 21 of the FSMA as a result of the exemptions contained in the FSMA (Financial Promotion) Order 2005 (**UK Exempted Person**).
- (b) The Intermediary or the Intermediary's Client are each a person who is any one or more of:
  - (i) a person who has professional experience relating to investments who fall within Article 19(1) of the FSMA (Financial Promotion) Order 2005 (the "**Order**");

- (ii) a high net worth entity and other person by whom any Shares may otherwise lawfully be acquired or otherwise lawfully be distributed or issued to, and, and who falls within Articles 48 and 49 of the Order; or
- (iii) a sophisticated investor who falls within Articles 50 or 50A of the Order.

#### Hong Kong

- (a) The Intermediary or the Intermediary's Client acknowledge, represent, warrant and/or agree (as relevant):
  - (i) that the Intermediary or the Intermediary's Client are each a person deemed to be a "**professional investor**" as defined in the Securities and Futures Ordinance (Cap. 571) of Hong Kong and any rules made under that ordinance; or
  - (ii) in circumstances where neither the Intermediary nor the Intermediary's Client meet the criteria in paragraph (a)(i) above, then neither the Intermediary nor the Intermediary's Client will participate in any transaction involving an Asset requiring a "prospectus" as defined in the Companies Ordinance (Cap. 32) of Hong Kong or constituting an Offer as being an offer to the public within the meaning of that Ordinance.
- (b) The contents of the Website and any Publication have not been reviewed by any regulatory authority in Hong Kong.

#### Singapore

- (a) The Website and any Publication has not been registered as a memorandum (as defined in the Securities and Futures Act ("**SFA**")) with the Monetary Authority of Singapore.
- (b) The Intermediary acknowledges that the Asset may be offered, or be made the subject of an invitation for subscription or purchase or be contained in or any other offering material and that neither the Intermediary nor the Intermediary's Client is any one or more of:
  - (i) an **institutional investor** (as defined in the SFA);
  - (ii) an accredited investor (as defined in the SFA); or
  - (iii) a person pursuant to an offer that is made on terms that the Shares are acquired at a consideration of not less than S\$200,000 (or its equivalent in a foreign currency) for each transaction, whether such amount is to be paid for in cash or by exchange of securities or other assets or that an offer is otherwise made to you pursuant to, and in accordance with the conditions of, any other applicable exemption of the SFA.

#### **AFS Licence**

- 41. The Intermediary acknowledges and accepts that PrimaryMarket Limited is a duly appointed Corporate Authorised Representative of Helmsec Global Capital Pty Limited ABN 77 129 825 798 the provider of financial services under Australian Financial Services Licence No 334838.

#### **Confidentiality**

- 42. Without limitation to the provisions of clause 5, the Intermediary hereby consents and acknowledges that PrimaryMarkets may share non confidential information or matters relating to the Intermediary with any of the Related Persons and Related Bodies Corporate

of PrimaryMarkets as well as with other Members and their respective Related Persons and Related Bodies Corporate all of whom may, in turn, likewise share non-confidential information relating to the Buyer with PrimaryMarkets.

#### **Amendments to this Agreement**

43. Subject to clause 44, each Member is and will remain responsible to check the Website from time to time to inform itself about any modifications or amendments of clauses to this Agreement.
44. Where any modification or amendment to this Agreement is considered by PrimaryMarkets (in its absolute discretion) to be necessary or prudent and sufficiently material, PrimaryMarkets will, as soon as practicable, notify the Member who is a party to this Agreement, and any other Member that PrimaryMarkets believes should be so notified, of such modification or amendment by giving to each such person no less than 5 days written notice (**Notice Period**) during which Notice Period the current version of this Agreement will remain in full force and effect. If the Member who is a party to this Agreement does not deliver in writing to PrimaryMarkets an objection to the relevant modification or amendment within the Notice Period then it will be deemed to have:
  - (a) irrevocably accepted, and be bound by, the relevant modification or amendment as notified by PrimaryMarkets; and
  - (b) confirmed that all other terms and conditions of this Agreement remain in full force and effect.

#### **Authorised Representatives of the Member**

45. A Member being a body corporate may appoint only one of its Directors or full-time employees as an authorised representative of the Member (**Authorised Representative**) to exercise and fulfil the Member's rights and obligations under this Agreement.
46. To appoint an Authorised Representative, a Member must complete the Authorisation Form as published on the Website, and as amended from time to time, and submit same once duly signed and otherwise completed, to PrimaryMarkets for its approval (which can be withheld or be given subject to conditions).
47. It is the Member's sole responsibility to ensure any Authorised Representative complies with all obligations and duties of the Intermediary under the terms and conditions of this Agreement and all relevant laws. The Member irrevocably indemnifies PrimaryMarkets in this regard.

#### **Severance and Other Provisions**

48. Any provision of the Agreement is only ineffective if and to the extent that it is void or unenforceable and will not invalidate any remaining provision of this Agreement and this Agreement will remain in full force and effect other than only to the extent that the offending provisions(s) will be deemed to be deleted.
49. In the event of any inconsistency with the provisions of this Agreement, the Terms and Conditions or Use and the Privacy Policy then the provisions of this Agreement shall prevail.
50. Each indemnity in this Agreement survives the termination of any Intermediary's Membership or expiry or Termination of this Agreement.
51. A term or condition of, or act done in connection with, this Agreement does not operate as a merger or termination of any of the undertakings, warranties and indemnities in this Agreement or the rights or remedies of the parties under this Agreement which continue unchanged.

52. Nothing in this Agreement may be construed as creating a relationship of partnership, of principal and agent or of trustee and beneficiary or a fiduciary relationship.
53. Without limitation to clause 52, the Intermediary by entering into this Agreement agrees and acknowledges that:
- (a) PrimaryMarkets has been appointed by the Seller under the Seller Member Agreement, as the agent of the Seller in connection with any Introduction and transaction that the Seller may enter into with a Buyer; and
  - (b) the sole terms and conditions of the abovementioned appointment of PrimaryMarkets as its agent will be as set out in these terms and conditions.

#### **Jurisdiction**

54. This Agreement and any disputes arising from it will be covered by the laws applying in the State of New South Wales. The Parties agree to the exclusive jurisdiction of the courts of the State of New South Wales.

Last Updated: 22 February 2016