

TERMS OF BUSINESS

Flynn Sprake Financial Services Pty. Limited trading as Flynn Sprake Financial Planning ABN 57 067 567
435 Authorised Representative No. 251038 of EMR Services Pty Ltd ABN 13 168 543 468 AFSL No. 521666
(we, us, our)

The following terms of business (**Terms**) apply to all Services provided by us to the client named in the Engagement Letter or Ongoing Services Agreement (**you, your, Client**) and any of your related entities. By agreeing to proceed with our engagement, you agree to be bound both individually and through your entities by these Terms, as amended from time to time.

1. MEANING OF WORDS

You can find the meaning of capitalised words used in these Terms in Schedule 1.

2. APPOINTMENT

You appoint us to provide the Services pursuant to these Terms, including to provide you with financial product advice and manage your Investments in accordance with the scope of the authority given by you to us.

3. SERVICES

3.1 We may provide the following Services to you from time to time:

- (a) providing you with financial product advice, which may include Personal Advice as specifically described in our Ongoing Services Agreement;
- (b) arranging for a Service Provider to provide Services in connection with your Investments and financial affairs including providing you administrative support in respect of those services, and, without limitation, the arranging of your payment of fees and or settlement obligations to those Service Providers;
- (c) arranging for the execution of transactions in relation to your Investments, including providing instructions to a relevant Service Provider on your behalf;
- (d) supervising, monitoring and maintaining your Investments in accordance with your instructions, pursuant to an investment mandate or strategy as agreed between us from time to time; and
- (e) dealing with a Service Provider and/or you as principal to enable the purchase and sale of your Investments (such as international securities).

3.2 The provision of the Services is subject to Applicable Laws.

3.3 Unless otherwise specifically agreed to by us in writing, any advice or opinion relating to the Services is provided solely for your benefit and may not be disclosed in any way, including any publication on any electronic media, to any other party and is not to be relied upon by any other party.

4. FINANCIAL ADVICE

4.1 If we provide you with General Advice, you agree that:

- (a) that General Advice has been prepared without taking account of your objectives, financial situation or needs;
- (b) you should, before acting on the advice provided by us, consider the appropriateness of the advice, having regard to your objectives, financial situation and needs; and
- (c) you should obtain and read, and make sure you understand, the relevant information available in respect of the Investments the subject of the advice (including, if you are a Retail Client, a Product Disclosure Statement), in full before making any decision about whether to acquire a financial product that may be the subject of the General Advice.

4.2 You acknowledge and agree that, if we provide you with Personal Advice pursuant to clause 3.1(a):

- (a) you have accurately and completely disclosed your investment objectives, financial situation and particular needs (your **relevant personal circumstances**) to us, in order to assist us to provide you with the Personal Advice;
- (b) you will promptly notify us of any change in your relevant personal circumstances;
- (c) if you do not give all the details in relation to your relevant personal circumstances, or fail to promptly notify us of changes in relation to your relevant personal circumstances then our advice could be based on incomplete and/or inaccurate information which could result in the Personal Advice not being appropriate for you.

4.3 You acknowledge and agree that, if we provide 'execution-only' type services, these are provided on a 'no advice' basis. You are responsible for determining that any investment decision you make is appropriate to your investment objectives, financial situation and particular needs. We are not responsible for any 'execution-only' investment decisions and you will be fully responsible for any liability arising from your 'execution-only' instructions.

5. PROVISION OF INFORMATION

5.1 In order for us to provide the Services to you, you will need to complete and sign any documents in the form provided by us from time to time in connection with us providing such Services and provide the information we require. These documents may be accepted in electronic format.

5.2 So that we can comply with our legal requirements when providing Services, when requested by us, you will need to provide us with the following information:

- (a) all information, data, or any other document required by us to verify your identity as required by AML/CTF Laws, including original or certified copies of documentary evidence;
- (b) if you are an individual, your Tax File Number, and you authorise us to use and disclose that information to third parties in connection with us providing the Services to you under these Terms;
- (c) if you are acting as a trustee, the relevant trust deed or any constituent documents of the trust, including any documents which amend those documents; and
- (d) any other information we may reasonably request, including for the purpose of determining whether you are a Wholesale Client.

5.3 In order to provide our Services, we require up to date information. Please notify us promptly if any information you have provided us is, or becomes, untrue, incomplete or inaccurate.

5.4 We may at any time ask you to provide further information which we reasonably consider is required in order for us to provide the Services to you. Any delay in providing such information to us may result in us not being able to provide the Services to you or to arrange for others to provide Services to you, or in a timely manner.

5.5 We acknowledge and agree that all records generated and maintained by you will remain your property. All working papers and other documents produced by us will remain our property. Any documentation that we produce for you or information we collect from you will be kept by us for a period of seven (7) years after which it will be destroyed.

5.6 You are able to request a copy of any documentation that we have produced at any time.

6. EFFECT OF DEATH OR INCAPACITY

If you die or become incapacitated whilst you are our client and subject to these Terms, your legal personal representative is hereby instructed by you to ratify and confirm any actions we take between the date of your death or incapacitation and the date we receive evidence to our satisfaction of your death or incapacitation, and indemnify us in relation to these actions.

7. FEES

7.1 You agree to pay us the fees and charges as agreed between us from time to time in our Engagement

Letter and/or Ongoing Service Agreement.

- 7.2** All Fees are payable in accordance with the Ongoing Services Agreement and must be paid on the relevant due date. If they are not paid by this date, we may charge you an additional amount for our Services equal to interest on the unpaid balances at a rate of 2% above the Westpac Banking Corporation's indicator 180 day bank bill rate.
- 7.3** If required by legislation, we will provide you with an annual fee disclosure statement.
- 7.4** You agree to grant us a direct debit authority in relation to one of your Australian bank accounts to debit our Fees. The details of our direct debit agreement will be set out in your Ongoing Services Agreement.
- 7.5** Unless expressly stated otherwise, all Fees are expressed on a GST- inclusive basis. Where a Fee is expressly stated to be exclusive of GST, you agree to pay us the GST amount.

8. SET OFF

- 8.1** All of your monetary obligations under these Terms are absolute, free of any right by you to counterclaim or set off and are only satisfied once the payment has cleared.
- 8.2** If you fail to meet any settlement obligations which you have instructed us to incur, for which we have incurred liability on your behalf, you agree that we may sell on your behalf any of your Investments and apply the proceeds to reduce your liability to us or to a third party to whom you own an obligation in connection with the Services.
- 8.3** We may:
- (a) set off any amount payable to us, or any of our agents, by you against any amount payable by us or any of our agents to you; and
 - (b) withhold any amount payable by us, or any of our agents, to you in satisfaction of any amount payable to us, or any of our agents, by you.

9. PEOPLE YOU AUTHORISE

- 9.1** You may appoint one or more people as Authorised Persons to represent or act for you, to receive information in regard to your financial affairs, or give instructions on your behalf. Any such an appointment is subject to that person being reasonably acceptable to us, you providing the required AML documents, and your written instruction. You need to ensure that your Authorised Person reads and understands these Terms prior to their appointment and knows the rights and remedies we may have against the Authorised Person pursuant to clause 9.3.
- 9.2** You agree and understand that:
- (a) we may act upon the instructions of any Authorised Person you have appointed at any time;
 - (b) an Authorised Person may be restricted from providing instructions in relation to particular Services: and
 - (c) we may provide information relating to your Investments in response to a request from an Authorised Person;
- without the necessity to check the authority of that Authorised Person to give such instructions or to request such information.
- 9.3** You agree that if any of your Authorised Persons breach these Terms, the breach will be attributed to you as principal, and we have the same rights and remedies against the principal as we would if you had personally committed the breach. Where we can take action against the Authorised Person, we do not need to do so before exercising the rights granted in this clause against you.
- 9.4** If you wish to revoke the authority of an Authorised Person, please notify us in writing.

10. REPRESENTATIONS AND WARRANTIES

You represent and warrant that:

- 10.1** all information you have provided to us is true, complete and accurate, and we may rely on that information in providing our Services and in the exercise of our authority as your attorney appointed under clause **Error! Reference source not found.** of these Terms;
- 10.2** you have the power and authority to enter into the Terms and to perform your obligations under these Terms, and these Terms constitute valid and binding obligations on you;
- 10.3** if you are an individual, you are over the age of 18;
- 10.4** if one of your entities is a body corporate, it has been, and remains, validly registered and existing under the relevant laws of incorporation;
- 10.5** if you are acting as a trustee:
- (a) you have been properly appointed as the sole trustee of the relevant trust (**Trust**) and you are not in breach of trust;
 - (b) these Terms will bind you in your personal capacity and also in your capacity as a trustee;
 - (c) the Trust is duly constituted and is validly existing in compliance with all Applicable Laws, and the constitutional documents of the Trust have been duly stamped where required, in accordance with the laws of each State and Territory of Australia;
 - (d) you have the right to be fully indemnified out of the Trust's assets for any obligation incurred under these Terms before any Trust beneficiary's claim and this right has not been limited or reduced in any way;
 - (e) without limiting clause 10.2, you are authorised to, and have full power and authority, under the trust deed for the Trust to enter these Terms and acquire our Services, to perform your obligations under these Terms and any transaction that may arise under them;
 - (f) in the case of a superannuation fund, the entry into of these Terms and the undertaking contemplated under these Terms:
 - (i) complies with all Applicable Laws, prudential standards and regulator issued guidelines applicable to the operation of superannuation funds, including the SIS Act, the SIS Regulations and the APRA superannuation prudential standards, prudential practice guides and other guidelines;
 - (ii) is in accordance with the fund's risk management strategy (including any applicable derivatives risk statement) and investment strategy prepared in accordance with the SIS Act and SIS Regulations; and
 - (iii) is on an arm's length basis, for value and on commercial terms;
- 10.6** if more than one person constitutes the Client (each a joint holder), each joint holder is jointly and severally responsible for performing all of the obligations and liabilities under these Terms, and each representation, warranty and undertaking under these Terms is taken to have been made by each joint holder;
- 10.7** except to the extent expressly agreed otherwise, we will only deal with the Client and no other person as its client for the purposes of the Applicable Laws and no other person shall have any rights under these Terms;
- 10.8** you have read and understood all documentation provided to you by us in connection with our Services, including without limitation, if you are a Retail Client, our Financial Services Guide;
- 10.9** you authorise us to provide any relevant information about you to Service Providers in connection with the provision of the Services;
- 10.10** you understand and acknowledge that your Investments are subject to risks of loss because of market, currency, economic, political, business and other events. We do not promise, represent, or guarantee that our advice to you, or the provision of the Services by us or a Service Provider, will

achieve a particular rate of return for your Investments;

- 10.11** you will ratify and confirm any proper actions we or any Service Provider carry out based on your instructions, or the instructions of an Authorised Person;
- 10.12** as soon as you become aware of an error or omission, you are responsible for taking necessary action to mitigate further loss;
- 10.13** except where you have authorised us, and we have agreed, to manage your Investments on a discretionary basis, we are not responsible for your investment decisions;
- 10.14** you must pay all associated duties and taxes (including any GST) in relation to your Investments;
- 10.15** we reserve the right to provide you with any Service in our sole discretion.

11. CONFIDENTIALITY AND PRIVACY

- 11.1** Except as provided for in these Terms and our Privacy Policy, or as otherwise agreed in writing by you or as required by law, we will keep confidential all personal information provided by you including information concerning your financial affairs or Investments.
- 11.2** You acknowledge that your personal information may be collected, stored, used or disclosed by us in accordance with our Privacy Policy, which is available at <https://www.flynnsprake.com.au> or you may request a copy from our Privacy Officer by sending an email to admin@fsfp.com.au. By agreeing to these Terms, you consent to the collection, storage, use and disclosure of your personal information in accordance with our Privacy Policy, including having your identity information verified with the issuer or official record holder through a Document Verification Service.

12. LIMITATION OF LIABILITY AND INDEMNITY

- 12.1** To the extent permitted by the Applicable Laws and subject to the provisions of the Competition and Consumer Act 2010 (Cth), the ASIC Act and the Corporations Act which cannot be excluded by any agreement between the parties, we and our directors, officers, employees and Associates will not be liable for any Loss incurred by you directly or indirectly (except to the extent resulting from or caused by our negligence, fraud or dishonesty), without limitation as a result of or arising out of:
 - (a) us acting on your instructions or the instructions of an Authorised Person;
 - (b) our failure to act (or refuse to act) on your instructions or the instructions of an Authorised Person, regardless of whether there were any error or omission in your instructions;
 - (c) your failure to comply with these Terms;
 - (d) anything lawfully done by us, in accordance with these Terms or in compliance with a direction, request, or requirements under Applicable laws or of a regulatory authority;
 - (e) any event or circumstance which we cannot reasonably control, including failure or problems involving the relevant stock exchange or market operator or failure of electronic or mechanical equipment or communication lines;
 - (f) any delay, interruption, omission, failure, error or fault by us in passing on and executing your instructions;
 - (g) any failure or delay by a Service Provider;
 - (h) market movements and other risks associated with the Investments; or
 - (i) the reliance on a document or message that we had no reason to believe was not authentic or delays caused by our further investigation of the authenticity of the instructions.
- 12.2** You agree to indemnify and keep us indemnified and each of our directors, officers, representatives, agents, employees and Associates (**Indemnified Parties**) from and against any Loss reasonably incurred by any of the Indemnified Parties acting under, or in connection with, these Terms except insofar as any Loss is caused by the negligence, fraud or willful misconduct of any Indemnified Party. We hold the benefit of this indemnity for each Indemnified Party, and this indemnity continues after

the termination of these Terms and is for the benefit of each of the Indemnified Parties and may be enforced by an Indemnified Party individually or jointly with another Indemnified Party.

13. SUSPENSION RIGHTS AND TERMINATION

13.1 Subject to clause 13.2, these Terms may be terminated by either party giving one month's written notice to the other party, without affecting your liability to pay, and our rights to deduct or recover, all accrued Fees which are due and payable in respect of the period up to and including the termination date.

13.2 These Terms terminate immediately if the entity providing you with Services ceases to be authorised under an AFSL to provide the Services.

13.3 Upon termination of these Terms:

- (a) all fees accrued will become immediately due and payable by you and we may exercise our right under clause 7.4;
- (b) all obligations under these Terms cease upon termination (but for the avoidance of doubt, rights or obligations that arise before termination are not affected).

14. ELECTRONIC COMMUNICATION

14.1 You acknowledge that we may transmit any document (including all disclosure documents we are required to give you) to you electronically, including via hyperlinks or USBs. If at any stage you wish to receive these documents in hard copy rather than electronically please let us know.

14.2 Without limiting any other way that we can provide you with our Financial Services Guide, you consent to receive our Financial Services Guide on our website at www.flynnsprake.com.au/files/fsg.pdf. You will be taken to have received the Financial Services Guide at the time you accept this agreement. You acknowledge and agree that you will be taken to have received any update of the FSG on and from the date the updated FSG is published on our website. We will not inform you when the FSG is updated. It is your obligation to check and read the FSG on our website from time to time, and particularly before you engage us to provide any of the Services.

15. GENERAL

15.1 Except as otherwise expressly provided in these Terms, any notice, approval, consent or any other documents must be in writing and must be sent by facsimile, email, registered post or courier and addressed as follows:

- (a) if to you, to your last address or email address notified in writing to us; and
- (b) if to us the following details:

PO Box 383, Wagga Wagga, NSW 2650

admin@fsfp.com.au

Or as otherwise notified in writing to you from time to time.

15.2 Subject to the rest of this clause, these Terms may only be amended by written agreement between the parties. However, we may with 7 days prior written notice to you, amend these Terms to correct any obvious error or address unintended consequences and to reflect any change in Applicable Laws which affects the operation of these Terms.

15.3 You may not assign, transfer or novate any of your rights or obligations under these Terms without our written consent. We may, with 10 Business Days' notice to you, assign, transfer or novate its rights or obligations under these Terms to any third party.

15.4 If any part of these Terms is invalid, void or unenforceable, these Terms are only affected to the extent of such invalidity, voidness or unenforceability and the remainder of the Terms continues in full force and effect.

15.5 These Terms are governed by, and must be construed in accordance with, the law of the State of

New South Wales. Each of you and us irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales and courts competent to hear appeals from those courts.

SCHEDULE 1 - MEANING OF WORDS AND INTERPRETATION

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

AFSL means an Australian financial services licence

Associates means all of our associates (as that term is used in the Corporations Act) from time to time.

Applicable Laws means any common law, principles of equity, statute, regulations, rules, class orders or instruments that apply to the provision of the Services under these Terms, including but not limited to the Corporations Act, ASIC Act, AML/CTF Laws, each as amended from time to time or for the time being in force.

Authorised Person means a person appointed and authorised by you under clause 9.1.

Business Day means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Adelaide, South Australia.

Client means the individual or entity to whom we provide Services.

Fee/Fees has the meaning given to it in clause 7.1.

General Advice has the meaning given to that term pursuant to section 766B(4) of the Corporations Act.

Indemnified Party has the meaning given to this term in clause 12 of these Terms.

Investment means any financial product covered by our Australian Financial Services Licence.

Loss means any claim, action, demand, proceeding, judgment, damage, loss, liability (whether direct or indirect, in tort or contract or breach of statutory duty or otherwise), cost, charge, expense, outgoing, payment, fine, penalty loss or damages (including without limitation consequential loss or damage of any nature whatsoever).

Ongoing Services Agreement means the agreement between you and us that sets out the specific details of services we will provide to you.

Personal Advice means has the meaning given to that term pursuant to section 766B (3) of the Corporations Act.

Privacy Officer means our privacy officer who can be contacted as set out in in clause 11 of these terms.

Privacy Policy means our privacy policy which is linked in clause 11 of these Terms.

Services means the services as outlined in clause 3.1.

Service Provider means a service provider other than us who provides services in connection with your Investments from time to time, whether or not we have arranged such relationship with the Service Provider on your behalf.

Terms means these Terms of Business.

You, Yours means the Client.

This document is not to be interpreted against the interests of a party merely because that party proposed this document or some provision in it or because that party relies on a provision of this document to protect itself.

If a provision of this document requires a person that is not a party to this document to do, or not to do, a thing, each party must use its reasonable efforts to ensure that the person does, or does not, do that thing.