

GBM & CMB Terms of Business



1. TERMS OF BUSINESS

- 1.1 These terms of business, together with any schedules, supplemental terms, and accompanying documents, as introduced, amended or supplemented from time to time (the “**Terms**”) will govern your banking relationship with each of HSBC Bank Australia Limited ABN 48 006 434 162 and The Hongkong and Shanghai Banking Corporation Limited, Sydney branch ABN 65 117 925 970 (collectively and individually, “**HSBC**” or “**we**”) and the Services you receive from HSBC, from time to time.
- 1.2 These Terms govern how HSBC will use your information and that of your Connected Persons. By using the Services, you agree that HSBC and members of the HSBC Group shall use Customer Information in accordance with these Terms.
- 1.3 These Terms will (i) supplement any terms of business provided to you, and any product documentation in place between us, whether such terms of business and/or product documentation is entered into before, on or after the date these Terms are issued to you, and will (ii) be in addition to the terms and conditions in all other agreements, express or implied, and whether entered into before, on or after the date of these Terms, between us.
- 1.4 These Terms supersede all provisions previously in force between you and HSBC concerning the subject matter covered by these Terms, in particular to the extent of any conflict or inconsistency.
- 1.5 These Terms shall prevail in the event of any conflict or inconsistency between any of these Terms and those terms in any service or product agreement between you and HSBC (the “**Other Terms**”), whether entered into before, on or after the date of these Terms, notwithstanding the existence of any contrary provisions in such **Other Terms**

regarding conflict of inconsistency between such **Other Terms** and these **Terms**. Any consents, authorisations, HSBC requested waivers and permissions that you have already provided in relation to Customer Information shall continue to apply in full force and effect, to the extent permissible by applicable local law.

1.6 INTERPRETATION

- (a) References to “the **Customer**” or “**you**” shall mean you, or, if applicable, the members of your group listed in the Appendix (collectively and individually, “the **Customer**” or “**you**”);
- (b) The definitions set out in **Schedule 1** will apply except where the context requires otherwise;
- (c) Clause headings are included for convenience and do not affect interpretation;
- (d) A reference to these Terms includes any variation, supplement, novation or replacement of any of them;
- (e) References to a person includes a sole proprietorship partnership, body corporate, an unincorporated association or an authority and include that person’s executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and assigns; and
- (f) References to the singular includes the plural and vice versa.

2. COLLECTION, PROCESSING AND SHARING OF CUSTOMER INFORMATION

2.1 COLLECTION

HSBC and other members of the HSBC Group may collect, use and share **Customer Information**. Customer Information may be requested and/or collected from you (or a person acting on your behalf), or may also be collected by or on behalf of HSBC, or members of the HSBC Group, from other sources

(including from publically available information), generated or combined with other information available to HSBC or any member of the HSBC Group.

2.2 PROCESSING

HSBC and/or members of the HSBC Group will process, use, transfer and disclose Customer Information in connection with the following purposes (the “**Purposes**”):

- (a) for the provision of Services and to approve, manage, administer or effect any transactions that you request or authorise;
- (b) meeting Compliance Obligations;
- (c) conducting Financial Crime Risk Management Activity;
- (d) collecting any amounts due from you;
- (e) conducting credit checks and obtaining or providing credit references;
- (f) enforcing or defending our rights, or those of a member of the HSBC Group;
- (g) for our internal operational requirements or those of the HSBC Group (including, without limitation, credit and risk management, system or product development and planning, insurance, audit and administrative purposes);
- (h) maintaining HSBC’s overall relationship with you (including marketing or promoting financial services or related products to you and market research); and
- (i) perfecting any interest granted to HSBC by you or any third party for you.

2.3 SHARING

By using the Services, you agree that HSBC may (as necessary and appropriate for the Purposes) transfer and disclose any Customer Information, including to the following recipients (who

may also process, use, transfer and disclose such Customer Information for the Purposes):

- (a) any member of the HSBC Group;
- (b) any sub-contractors, agents, service providers, or associates of the HSBC Group (including their employees, directors and officers);
- (c) any party as may be necessary for the provision of the Services to you;
- (d) any Authorities;
- (e) anyone acting on your behalf, transaction parties, payment recipients, beneficiaries, account nominees, intermediary, correspondent and agent banks, clearing houses, clearing or settlement systems, market counterparties, upstream withholding agents, swap or trade repositories, stock exchanges, companies in which you have an interest in securities (where such securities are held by HSBC for you);
- (f) any party involved in the acquiring of an interest or assuming of risk in or in connection with the Services;
- (g) other financial institutions, credit reference agencies or credit bureaus, for obtaining or providing credit references;
- (h) any third party fund manager providing you with asset management services;
- (i) any introducing broker to whom HSBC provides introductions or referrals; and
- (j) any party in connection with any HSBC business alliance, transfer, disposal, merger or acquisition, wherever located, including in jurisdictions which do not have data protection laws that provide the same level of protection as the jurisdiction in which the Services are supplied.

CUSTOMER OBLIGATIONS

2.4 You agree to supply Customer Information to HSBC, and to inform HSBC promptly, and in any event, within 30 days, in writing if there are any changes to Customer Information supplied to HSBC or a member of the HSBC Group from time to time, and to respond to any request from, HSBC, or a member of the HSBC Group.

2.5. You confirm that every Connected Person whose information (including Personal Data or Tax Information) you (or anyone on your behalf) have provided, or will from time to time provide to HSBC or a member of the HSBC Group has been notified of and agreed to the processing, disclosure and transfer of their information as set out in these Terms. You shall, at the same time, advise Connected Persons that they may have rights of access to, and correction of, their Personal Data.

2.6 You acknowledge that where:

- you fail to provide Customer Information that HSBC reasonably requests, or
- you withhold or withdraw any consents which HSBC may need to process, use, transfer or disclose Customer Information for the Purposes, or
- HSBC, or a member of the HSBC Group, has suspicions regarding the possible commission of Financial Crime or a Customer presents a potential Financial Crime risk to a member of the HSBC Group,

HSBC may:

- (a) be unable to provide new, or continue to provide all or part of the, Services to you and reserves the right to terminate its business relationship with you;

- (b) take actions necessary for HSBC or a member of the HSBC Group to meet the Compliance Obligations; and/or
- (c) block, transfer or close your account(s).

In addition, your failure to supply your, or your Connected Person's, Tax Information, or other relevant circumstances relating to you or your Connected Persons, may result in HSBC making its own decision with respect to your status, or that of your Connected Persons, including whether to report you to a Tax Authority, and may require HSBC or other persons to withhold amounts as may be legally required by any Tax Authority and paying such amounts to any Tax Authority or to take any of the other measures set out in (a) through (c) above.

2.7 You acknowledge that:

- (a) HSBC has collected and will collect Customer Information from you or another party in the course of implementing and/or providing the Services to you;
- (b) the collection of some or all of the Customer Information may be required or authorised under tax Laws, Laws regulating Financial Crime or any other Laws;
- (c) Customer Information is collected for the Purposes;
- (d) if Customer Information is not collected by HSBC, HSBC may not be able to provide new, or continue to provide all or part of the, Services to you;
- (e) Customer Information may be transferred and disclosed to the recipients as detailed in clause 2.3;
- (f) the Privacy Policy contains information about how an individual may access their Personal Data and Tax Information that is held by HSBC and seek the correction of such information;

- (g) the Privacy Policy also contains information about how an individual may complain about a breach of the Australian Privacy Principles under the Privacy Act and how HSBC will deal with such a complaint;
- (h) the Privacy Policy is available at www.hsbc.com.au or on request; and
- (i) HSBC will disclose Customer Information to overseas recipients, including members of the HSBC Group operating overseas. A list of the overseas countries in which members of the HSBC Group operate can be found at www.hsbc.com.au.

If you give HSBC Personal Data or Tax Information about another person or direct another person to give their Personal Data or Tax Information to HSBC, you must inform that person of these Terms, including without limitation all the matters set out in this clause 2.7.

3. DATA PROTECTION

- 3.1 Whether it is processed in a home jurisdiction or overseas, in addition to any applicable data protection legislation, Customer Information will be protected by a strict code of secrecy and security which all members of the HSBC Group, their staff, and third parties with whom HSBC has entered into a written contract, are subject to. For this reason, HSBC will not take further steps to ensure that the overseas recipients do not breach the Australian Privacy Principles under the Privacy Act in relation to an individual's information disclosed to overseas recipients.

4. FINANCIAL CRIME RISK MANAGEMENT ACTIVITY

- 4.1 HSBC, and members of the HSBC Group, are required, and may take any action they consider appropriate in their sole and absolute discretion, to meet Compliance Obligations in connection with the detection, investigation and

prevention of Financial Crime (“**Financial Crime Risk Management Activity**”).

Such action may include, but is not limited to: (a) screening, intercepting and investigating any instruction, communication, drawdown request, application for Services, or any payment sent to or by you, or on your behalf, (b) investigating the source of or intended recipient of funds, (c) combining Customer Information with other related information in the possession of the HSBC Group, and/or (d) making further enquiries as to the status of a person or entity, whether they are subject to a sanctions regime, or confirming a Customer's identity and status.

- 4.2 Exceptionally, our Financial Crime Risk Management Activity may lead to us delaying, blocking or refusing the making or clearing of any payment, the processing of your instructions or application for Services, or the provision of all or part of the Services. To the extent permissible by law, neither HSBC nor any other member of HSBC Group shall be liable to you or any third party in respect of any Loss whether incurred by you or a third party caused in whole or in part in connection with the undertaking of Financial Crime Risk Management Activity.

- 4.3 You acknowledge and agree that:

- (a) the action taken by HSBC and/or members of the HSBC Group in any Financial Crime Risk Management Activity may prevent or cause a delay in the processing of certain information;
- (b) neither HSBC nor any member of the HSBC Group warrants that any information on the systems of HSBC or any member of the HSBC Group relating to any payment message or other information or communication which are the subject of any action taken in connection with any Financial Crime Risk Management Activity is accurate, current or up-to-date at the time it is accessed, whilst such action is being taken.

5. TAX COMPLIANCE

You acknowledge and will ensure that each Connected Person acting in their capacity as a Connected Person (and not in their personal capacity) understands, that you and they are solely responsible for understanding and complying with your tax obligations (including but not limited to, tax payment or filing of returns or other required documentation relating to the payment of all relevant taxes) in all jurisdictions in which those obligations arise and relating to the opening and use of account(s) and/or Services provided by HSBC and/or members of the HSBC Group. Certain countries may have tax legislation with extra-territorial effect regardless of your or your Connected Person's place of domicile, residence, citizenship or incorporation. HSBC and/or any member of the HSBC Group does not provide tax advice. You are advised to seek independent legal and/or tax advice. HSBC and/or any member of the HSBC Group has no responsibility in respect of your tax obligations in any jurisdiction which they may arise including, without limitation, any that may relate specifically to the opening and use of account(s) and/or Services provided by HSBC and/or members of the HSBC Group.

6. MISCELLANEOUS

6.1 SURVIVAL UPON TERMINATION

Clauses 1 to 5 and 7, and this clause 6.1 of these Terms shall survive the termination of the banking relationship between you and HSBC, or any termination by HSBC or a member of the HSBC Group of the provision of any Services to you or the closure of your accounts.

6.2 VARIATION

HSBC may make amendments to these Terms which will become effective on the expiry of 30 days notice to you. Any such

notice may be given to you in writing. However, we may, in exceptional circumstances, make amendments to these Terms at any time in order to comply with any law or regulation, which will become effective immediately on notice to you.

6.3 ASSIGNMENT

The obligations under these Terms bind you and your respective successors, permitted assigns and personal representatives as applicable. You may not novate or assign any of your rights and/or obligations under these Terms without our prior written consent.

6.4 NOTICE

In proving service or delivery of a relevant notice to you under these Terms, it shall be sufficient for HSBC to prove that it was correctly addressed and was posted or, where it was delivered otherwise than by post, that it was delivered to the correct address or, where it was sent by fax or telex or other means of telecommunication, that it was transmitted to the correct number or electronic mail address as last notified to HSBC.

6.5 RIGHTS AND REMEDIES

The rights and remedies herein are cumulative and not exclusive of any rights or remedies provided by law. No failure to exercise or delay in exercising the same shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof.

6.6 WAIVER

In the event that any party fails, or delays, to exercise a right under these Terms, that party may still exercise that right later. Any waiver or any right shall be in writing and limited to the specific circumstances.

6.7 SEVERABILITY

Each provision of these Terms is severable and if any provision is or becomes illegal, invalid or unenforceable in any jurisdiction, that provision is severed only in that particular jurisdiction. All other provisions shall continue to have effect.

6.8 FURTHER ASSURANCES

You shall from time to time execute such documents and perform such acts and things as we may reasonably require to give full effect to the provisions of these Terms.

7. GOVERNING LAW AND JURISDICTION

7.1 These Terms and any non-contractual obligations arising out of or in connection with them shall be governed by the laws of New South Wales and the parties submit to the exclusive jurisdiction of the courts of New South Wales.

8. AUSTRALIAN FINANCIAL COMPLAINTS AUTHORITY

8.1 HSBC participates in both internal and external dispute resolution processes. You may, for instance, contact the Australian Financial Complaints Authority (“**AFCA**”), if you fall within its jurisdiction.

The AFCA scheme is an impartial, independent and free service for personal and small business customers as defined under the Australian Financial Complaints Authority complaint resolution scheme rules (“AFCA Rules”).

AFCA Rules defines ‘small business’ as a business that had less than 100 employees at the time of the act or omission by the financial firm that gave rise to the complaint. (Note: A complaint is excluded from AFCA’s jurisdiction if the complainant is a member of a group of related bodies corporate and that group has 100 employees or more.)

For more information refer to the AFCA website www.afca.org.au

You can contact AFCA by writing to:
Australian Financial Complaints Authority
GPO Box 3 Melbourne, VIC 3001
Phone: 1800 931 678

Email: info@afca.org.au

CUSTOMER ACCEPTANCE

To the maximum extent permitted at law, these Terms shall be deemed to have been accepted and shall be effective within 30 days following dispatch of these Terms.

SCHEDULE 1

“Authorities” includes any judicial, administrative, public or regulatory body, any government, any Tax Authority, securities or futures exchange, court, central bank or law enforcement body, or any of their agents, with jurisdiction over any part of the HSBC Group.

“Compliance Obligations” means obligations of the HSBC Group to comply with: (a) Laws, or international guidance and internal policies or procedures, (b) any demand and/or request from Authorities or reporting, regulatory trade reporting, disclosure or other obligations under Laws, and (c) Laws requiring HSBC to verify the identity of our customers.

“Connected Person” means a person or entity whose information (including Personal Data or Tax Information) you provide, or is provided on your behalf, to any member of the HSBC Group in connection with the provision of the Services. **Connected Person** may include, but is not limited to, any guarantor, a director or officer of a company, partners or members of a partnership, any “substantial owner”, “controlling person”, or beneficial owner, trustee or settler of a trust, account holder of a designated account, payee of a designated payment, representative, agent or nominee, or your principal where you are acting on another’s behalf, or any other persons or entities with whom you have a relationship that is relevant to your banking or other service relationship with the HSBC Group.

“Controlling Persons” means individuals who exercise control over an entity (for a trust, these are the settlor, the trustees, the beneficiaries or class of beneficiaries, and any other individual who exercises ultimate effective control over the trust, and in the case of a legal entity other than a trust, such term means persons in equivalent or similar positions of control).

“Customer Information” means Personal Data, confidential information, and/or Tax Information of either the Customer or a Connected Person.

“Financial Crime” means money laundering, terrorist financing, bribery, corruption, tax evasion, fraud, evasion of economic or trade sanctions, and/or violations, or acts or attempts to circumvent or violate any Laws relating to these matters.

“HSBC Group” means HSBC Holdings plc, and/or any of, its affiliates, subsidiaries, associated entities and any of their branches and offices (together or individually), and **“member of the HSBC Group”** has the same meaning.

“Laws” means any local or foreign statute, law, regulation, ordinance, rule, judgment, decree, voluntary code, directive, sanctions regime, court order, agreement between any member of the HSBC Group and an Authority, or agreement or treaty between Authorities applicable to HSBC or a member of the HSBC Group.

“Loss” means any claim, charge, cost (including, but not limited to, any legal or other professional cost), damages, debt, expense, tax, liability, obligation, allegation, suit, action, demand, cause of action, proceeding or judgment, however calculated or caused, and whether direct or indirect, consequential, punitive or incidental.

“Personal Data” means any information or opinion in whatever form relating to an individual, from which the individual can be identified, including, without limitation, sensitive personal data.

“Privacy Act” means Privacy Act 1988 (Commonwealth) as amended and supplemented from time to time.

“Privacy Policy” means the HSBC Privacy Policy, which is located at www.hsbc.com.au or is otherwise available upon request.

“Services” includes, without limitation, (a) the opening, maintaining and closing of your bank accounts, (b) providing you with credit facilities and other banking products and services (including, for example, trade services, securities dealing, investment advisory, broker, agency, custodian, clearing or

technology procuring services), processing applications, ancillary credit assessment and product eligibility assessment, and (c) the maintenance of HSBC's overall relationship with you.

“Substantial Owners” means any individuals entitled to more than 10% of the profits of or with an interest of more than 10% in an entity either directly or indirectly.

“Tax Authorities” means domestic or foreign tax, revenue, fiscal or monetary authorities.

“Tax Certification Forms” means any forms or other documentation as may be issued or required by a Tax Authority or by HSBC from time to time to confirm your tax status or that of a Connected Person.

“Tax Information” means any documentation or information (and accompanying statements, waivers and consents) relating, directly or indirectly, to your tax status and the tax status of any owner, “controlling person”, “substantial owner” or beneficial owner, that HSBC considers, acting reasonably, is needed to comply (or demonstrate compliance, or avoid non-compliance) with any HSBC Group member's obligations to any Tax Authority. **“Tax Information”** includes, but is not limited to, information about tax residence and/or place of organisation (as applicable), tax domicile, tax identification number, Tax Certification Forms, and certain Personal Data.

