
Custody Implementation Agreement Terms and Conditions

01 March 2017

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IMPORTANT NOTE: You should read these terms and Conditions together with the Laminar Capital Client Application Form

Operative provisions

1 Definitions and Interpretation

Definitions

1.1 The following definitions apply in the Agreement.

Accounts means, collectively, the Custodian Account and the Cash Account, as specified in clause 8.

Agent means an agent appointed by Laminar in accordance with clause 15.1 to provide some or all of the Services in accordance with the Agreement.

Agreement means the Custody Implementation Agreement which forms part of the Laminar Capital CAAF and executed by the Client as part of the account opening procedures.

AML/CTF Act means the *Anti-Money Laundering and Counter Terrorism-Financing Act 2006* (Cth) and its associated Rules and Regulations.

ASIC means the Australian Securities and Investments Commission.

ASIC Exemption means any exemption, modification or relief granted by ASIC by modifying or varying the application of the Corporations Act from time to time by any class order or other instrument issued by ASIC.

ASIC Regulatory Guide means a regulatory guide issued by ASIC (including any class order or other instruments issued under such regulatory guide but excluding a superseded regulatory guide) as varied or replaced from time to time.

Assets means the Securities and any other assets nominated by the Client which the parties agree will be the subject of the Services.

Authority includes any government or semi-government, statutory, public or other authority or body having jurisdiction over the Client, any Trust, any of the Assets or any matter or thing in relation to any of them.

Authorised Person means with respect to the Client, any person nominated by the Client (as varied in writing by the Client from time to time) and, if Laminar operates the Assets as a discretionary account, any person authorised by Laminar to provide the services which are the subject of the discretionary account arrangements Laminar has in place with the Client.

Business Day means a day on which Laminar is open for business in Melbourne other than a Sunday, Saturday, public holiday or bank holiday in Victoria.

Cash Account has the meaning given to that term in clause 8.1(b).

Confidential Information means any information that is deemed to be confidential by the parties from time to time, that is furnished to a party by the other party for the purposes of the Agreement.

Constitution means, in respect of a Trust, the constitution or trust deed governing the Trust (as varied from time to time).

Corporations Act means the *Corporations Act 2001* (Cth) and any regulations or instruments made under that Act, as amended from time to time.

Custodian means Sandhurst Trustees Limited ABN 16 004 030 737, or any replacement custodian as chosen by Laminar from time to time.

Custodian Account has the meaning given to that term in clause 8.1(a).

Custodian Agreement means the custodian agreement between Laminar and the Custodian dated 20th April 2009 as amended from time to time.

Effective Date means the date the Agreement is entered into between the Client and Laminar.

Insolvency Event means any of the following:

- (a) a person is taken or must be presumed to be insolvent or unable to pay its debts under any applicable legislation;
- (b) an applicable order is made for the winding up or dissolution or a resolution is passed;
- (c) an administrator, provisional liquidator, liquidator or person having a similar or analogous function under the laws of any relevant jurisdiction is appointed in respect of a corporation; or
- (d) a receiver or receiver and manager is appointed in respect of a corporation; or
- (e) a person enters into or takes any action to enter into an arrangement (including a scheme of arrangement or deed of company arrangement), composition or compromise with, or assignment for the benefit of, all or any class of the person's creditors or members or a moratorium involving any of them.

KYC Information has the same meaning given to that term in the AML/CTF Act.

Laminar Capital CAAF means the Laminar Capital Client Account Application Form completed as part of the account opening procedures.

Proper Instructions means an instruction provided by or on behalf of the Client to Laminar that is in writing signed by an Authorised Person and dated, is complete, clear and unambiguous, is sent or delivered in accordance with the Agreement, and relates to the Assets in accordance with clause 11.

Relevant Notice means any notice issued in relation to a Security and includes a notice:

- (a) in relation to a rights issue, a takeover offer, voting at a general meeting, insurance, tenancies, environmental matters, litigation, disputes, Taxes or liabilities; or
- (b) from any Authority.

Requirements means any requirements, notices, orders or directions received from or given by any Authority, address to or imposed on the Client or Laminar or both, whether directly or indirectly.

Securities means any securities, negotiable instruments or other non-cash property, including any financial products (as defined in the Corporations Act) from time to time, forming part of the Assets.

Securities System means any exchange, clearing house or agency which acts as a Securities depository or any other system for the central handling of Securities, and includes the Custodian.

Services means the services provided by Laminar in accordance with the Agreement, including, but not limited to:

- (a) appointing the Custodian to hold the Securities on trust on behalf of the Client in accordance with the terms and conditions of the Custodian Agreement;
- (b) instructing the Custodian from time to time with respect to the Securities.

Taxes includes any tax, surcharge, superannuation surcharge, duty (including stamp duty and financial institutions duty), capital gains tax, goods and services tax, value added tax, debits tax, impost, withholding tax or similar tax or any fine, penalty or late payment interest incurred or payable or expected to be incurred or payable in respect of, or in relation to, the Assets by Laminar or any other person.

Trust means any trust of which the Client is a trustee or responsible entity.

Wholesale Client has the meaning given to that term in sections 761G and 761GA of the Corporations Act.

Interpretation

- 1.2 Headings are for convenience only and do not affect interpretation. In the Agreement, unless the context requires otherwise:
- (a) Each recital and schedule of the Agreement and direction and instruction under the Agreement forms part of the Agreement.
 - (b) A reference to any legislation or to any provision of any legislation includes a reference to any modification or re-enactment of it, any legislative provision substituted for it and all regulations and statutory instruments issued under it.
 - (c) A word or phrase appearing in a certain context which, when used in a similar context in the Corporations Act would have a particular meaning, has that meaning in the Agreement.
 - (d) If a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day.
- 1.3 Capitalised terms have the meaning given to them in clause 1.1 of the Agreement, unless otherwise defined in the Agreement.
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2 Appointment of Laminar

- 2.1 On and from the Effective Date:
- (a) the Client appoints Laminar to provide the Services on the terms and conditions set out in the Agreement; and
 - (b) Laminar accepts that appointment.
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3 Acknowledgment

- 3.1 Laminar acknowledges that the Client is the beneficial owner of the Securities and that Laminar has no beneficial interest in the Securities.
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4 Laminar's General Duties and Obligations

- 4.1 Laminar must:
- (a) hold the Client's and any Agreements evidencing legal and beneficial title to the Assets on the terms and conditions of the Agreement;
 - (b) ensure that the Assets are clearly identified in its records as property of the relevant Client and held separately from the property of Laminar except to the extent permitted under an ASIC Regulatory Guide or ASIC Exemption;
 - (c) subject to the Agreement, act in accordance with Proper Instructions;
 - (d) except as otherwise permitted by ASIC and by the Client, ensure that all Securities (other than bearer Securities or Securities held in a Securities System) are registered in the name of the Client, Laminar or as a sub-account of Laminar;
 - (e) not take a charge, mortgage, lien or other encumbrance over, or in relation to, the assets in the Assets unless it is for expenses and outlays made by Laminar in accordance with the Agreement (other than Laminar's fees) or in accordance with the Client's Proper Instructions;
 - (f) immediately notify the Client in writing if it appoints a different custodian to that who has been appointed as Custodian as at the date of the Agreement; and
 - (g) maintain all records in relation to the Services as required by law and provide reasonable assistance to the Client or the Client's auditors, in order to make available such records for inspection upon receipt of reasonable notice from the Client.

5 Client's General Duties and Obligations

5.1 The Client must:

- (a) if required by Laminar, include in all offer documents of the Client statements to the effect that Laminar is an agent of the Client, it may only act in accordance with the terms of the Agreement and has no liability (including for negligence or breach of trust) or responsibility to subscribers to any offer of the Client for any act or omission in accordance with Proper Instructions of the Client or otherwise in accordance with the terms of the Agreement;
- (b) ensure that all instructions of the Client, its officers, employees and agents provided to Laminar are Proper Instructions; and
- (c) ensure that all Proper Instructions are in accordance with all relevant laws, any Requirements, and where applicable, the Constitution of the Trust.

6 Client Undertakings

6.1 The Client undertakes to Laminar:

- (a) that at all times during the term of the Agreement, the Client is a Wholesale Client and will immediately notify Laminar if there are any changes to its circumstances which may alter its status as a Wholesale Client;
- (b) to provide Laminar on request with any documents, information or instructions reasonably required by Laminar to enable it to perform its obligations under the Agreement or imposed by law, and to ensure that any such information will be accurate; and
- (c) to notify Laminar of any fact or circumstance within its knowledge which has given rise, or with the effluxion of time would give rise, to a breach by the Client of any material representation, undertaking or other provision contained in the Agreement;
- (d) where the Client is to have access to the records of Laminar, the Client shall execute such copyright or restriction agreement as is reasonably required by Laminar or the supplier of Laminar's record system; and
- (e) to comply with all laws and Requirements relating to:
 - (i) any of the Securities or anything or anyone in or on any of them; or
 - (ii) anything done or to be done or not to be done in, on or with the Assets or anything in or on any of them.

7 Client Undertakings in relation to Trusts

7.1 Subject to the clause 6, where applicable, in relation to a Trust, the Client undertakes to Laminar:

- (a) to notify Laminar in writing as soon as practicable after it becomes aware of the occurrence of any circumstances which would give rise to the winding up of any Trust or if any Trust is determined or for any reason ceases to exist;
- (b) to immediately notify Laminar in writing if it ceases or proposes to cease for any reason or at any time to be the sole trustee of any Trust and will procure that any new trustee of a Trust executes in favour of Laminar such covenants, deeds and other instruments which Laminar reasonably requires provided that these are not more onerous than those required or obtained by Laminar under or in relation to the Agreement;
- (c) duly and punctually perform and observe its obligations and duties under each Trust Constitution; and

- (d) to not be a party to a re-settlement, transfer or disposition to any other party of the property of any Trust other than in accordance with the relevant Constitution or as otherwise required by law.
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8 Maintaining accounts

- 8.1 The Client authorises Laminar to utilise or open and maintain, in accordance with the terms of the Agreement:
- (a) one or more custody accounts with the Custodian for Securities from time to time received or held by Laminar (**Custodian Account**); and
 - (b) one or more accounts for holding cash forming part of the Assets received by Laminar on behalf of the Client (**Cash Account**).
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9 Dealings in Custodian Account and Cash Account

- 9.1 Subject to clause 13.1, Laminar:
- (a) must only release and deliver Securities from the Custodian Account, or pay money from the Cash Account, upon receipt of, and in accordance with, Proper Instructions;
 - (b) may, without express authority from the Client attend to all non-discretionary details in connection with the sale, exchange, substitution, purchase, transfer and other dealings with the Securities; and
 - (c) must not co-mingle cash of the Client with its own cash or cash held by Laminar on behalf of other persons and must not withdraw any amount from any Cash Account except in accordance with the Agreement.
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10 Collection of income

- 10.1 Laminar must use reasonable endeavours to collect on a timely basis all income and other payments with respect to Securities in safe custody.
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11 Proper Instructions

Proper Instructions binding

- 11.1 Any Proper Instructions given to Laminar are deemed to have been given by the Client and bind the Client.

Laminar entitled to assume

- 11.2 In acting on any Proper Instructions, Laminar is entitled to assume that the Client has complied with all of the Client's legal and commercial obligations.

Receipt of communications

- 11.3 Any communication between the parties (including Proper Instructions) received:
- (a) by or at 10.00 AM AEST on a Business Day is deemed to have been received on that Business Day;
 - (b) after 10.00 AM AEST on a Business Day is deemed to have been received on the next Business Day; or
 - (c) on a day that is not a Business Day will be deemed to have been received on the next Business Day.

Laminar not required to act

- 11.4 Laminar is not required to act on any instructions to the extent that in the reasonable opinion of Laminar, those instructions:
- (a) are not Proper Instructions;

- (b) are not within the scope of the Services;
- (c) are contrary to applicable law or regulations;
- (d) are inconsistent with market practice,
- (e) are incomplete, ambiguous, unclear; or
- (f) would expose Laminar to personal loss or liability.

11.5 Laminar must notify the person issuing the Proper Instructions, if Laminar is unable to fully comply with those Proper Instructions for any reason.

Proper Instruction continues

11.6 Unless otherwise provided in the Agreement, a Proper Instruction continues in full force and effect until cancelled or superseded by a subsequent Proper Instruction.

Conflicting Proper Instructions

11.7 If Laminar receives a Proper Instruction but has not acted on the Proper Instruction and subsequently receives a further Proper Instruction which conflicts with the earlier Proper Instruction, then Laminar must promptly notify the Client of the conflict for the purpose of resolving the conflict prior to acting.

Liability for delays

11.8 Laminar is not liable for any loss arising from a delay in obtaining clarification of any Proper Instruction in accordance with clause 11.7, provided that Laminar has requested that clarification promptly and used reasonable endeavours to minimise any such delay.

12 Persons authorised to give Instructions

Authorised Persons

- 12.1 The Client must give a notice to Laminar in writing the names and specimen signatures of persons nominated by the Client to be Authorised Persons for the purposes of operating their account.
- 12.2 Notifying Laminar of Authorised Person or changes to Authorised persons can be done via the Authorised Persons form found [HERE](#).
- 12.3 The Client acknowledges and agrees that Authorised Persons are authorised to give instructions to Laminar on behalf of the Client for the purposes of operating their account and to sign on behalf of the Client all notices, certificates, communications, instructions confirmations and other documents required by or contemplated under the Agreement.

Laminar entitled to rely

- 12.4 Laminar is entitled to rely on the authenticity of the signatures and instructions given or purported to be given by the Client's Authorised Persons in accordance with the terms of the Agreement and Laminar is not liable for any claim, damage, expense, loss or liability arising from such reliance.
- 12.5 Laminar can rely on the identity and authority of such persons until it receives written notice from the Client to the contrary.

Additions and deletions to list

- 12.6 The Client must advise Laminar of any variation by addition to, or deletion from, Schedule 1 by written notice signed by two Authorised Persons who are not the subject of the variation.
- 12.7 Schedule 1 will be taken to be amended with effect from the date that Laminar receives the relevant variation notice given under clause 12.6.

13 Laminar's general powers without Proper Instructions

- 13.1 Laminar has power to do any of the following on an ongoing basis without Proper Instructions:
- (a) open and maintain Accounts in respect of the Assets in accordance with clause 8;
 - (b) if any amount referred to in clause 18 remains unpaid for four Business Days or more (or any other period specified in a notice from Laminar) after the later of the date such notice was sent to the Client and the relevant due date, realise a sufficient part of the Assets held in the Accounts to satisfy the unpaid amount;
 - (c) make deductions from the Accounts from time to time for the purposes of satisfying any obligation entered into in accordance with a Proper Instruction;
 - (d) receive and hold, or procure the receipt and holding of, any assets that form part of the Assets and register with the Custodian, the assets in the name of the Client;
 - (e) take a charge, mortgage, lien or other encumbrance over the Assets for the purpose of paying or reimbursing any expenses or outlays incurred by Laminar under the Agreement (other than Laminar's fees);
 - (f) appoint any person, recognised depository, securities system or clearing system in accordance with clause 15.1; and
 - (g) promptly give or cause to be given to any Authorised Person originals or copies of corporate notices.

14 Laminar's general powers with Proper Instructions

Legal proceedings

- 14.1 Laminar is not obliged to institute or defend legal proceedings unless the Client requests it to do so and indemnifies Laminar to Laminar's reasonable satisfaction.

Exercise of rights

- 14.2 Where the Client authorises Laminar to exercise voting rights, rights to take up preferential allocations or other similar rights in respect of any Securities, the Client must give Laminar Proper Instructions no later than three Business Days prior to the relevant date for the exercise of the rights.

Translation or summary

- 14.3 The parties acknowledge that Relevant Notices received by Laminar may be, or may need to be translated or summarised. The Client acknowledges that, in respect of a Relevant Notice, Laminar:
- (a) has no duty to verify the information contained in it;
 - (b) has no duty to verify the correctness of any translation or summary of it;
 - (c) has no duty to translate or summarise it;
 - (d) does not guarantee any matter pertaining to it; and
 - (e) is not be liable to the Client or any other person for any loss that may result from relying on it.

No obligation to request Relevant Notices

- 14.4 Laminar has no obligation to request Relevant Notices in respect of any Securities even though Laminar may, or should reasonably, believe such Relevant Notices are due.
- 14.5 Where Laminar believes that a Relevant Notice is due but not received it must inform the Client as soon as reasonably practicably after forming that belief.

Laminar may request certificate

14.6 Where Laminar is requested by the Client to give any Relevant Notice, Laminar may request the Client to provide a certificate as to the contents of the Relevant Notice.

Right to not act if liability not limited

14.7 Despite any other clause in the Agreement, Laminar is not obliged to do or refrain from doing anything under the Agreement or in relation to any Security unless Laminar's liability is limited to its reasonable satisfaction.

15 Agents

Use of agents

15.1 Subject to the provisions of this clause 15, Laminar may in its discretion appoint and use the services of:

- (a) any other person (whether or not related to or associated with Laminar) as nominee, agent, broker, delegate or adviser; or
- (b) any recognised depository, securities system or clearing system

as its Agent, where it is considered by Laminar to be necessary or expedient and to delegate to such person any of the powers conferred on Laminar under the Agreement as may be necessary for that purpose.

Negligence or fraud of agents

15.2 Laminar is not liable to any person for any liability or loss arising from the negligence, default, fraud, bankruptcy, insolvency or receivership of a person appointed under clause 15.1(a).

Laminar to monitor agents

15.3 Laminar must monitor persons appointed under clause 15.1(a) with respect to the performance of their obligations arising under the Agreement and must from time to time make reasonable enquiries to ensure that they continue to perform their obligations in relation to the Agreement.

Agent's fees

16 Subject to the Agreement, the fees and expenses of any person appointed under clause 15.1(a) must be paid by Laminar.

17 Insurance

17.1 Laminar must maintain adequate insurance consistent with usual market practice.

18 Fees and Expenses

Fees

18.1 In consideration for Laminar providing the Services, the Client must pay Laminar the fees as agreed from time to time between Laminar and the Client.

18.2 The custody fees payable by the client will be the greater of \$10 per month of the amount calculated on the month end holding value of bonds held in custody multiplied by 0.05% pa.

18.3 Laminar reserves the right at any time to increase Fees or introduce new Fees in relation to the services provided under the agreement.

Payable monthly

18.4 Fees payable to Laminar, if any, are calculated on a pro-rata basis and payable in arrears to Laminar on a monthly basis or on demand.

- 18.5 The Client will, if requested by Laminar, reimburse Laminar for costs and expenses incurred by it in performance of the Services, including any charges under the Custodian Agreement.

Manner of payment

- 18.6 The Client must within three Business Days (or such shorter period as specified in the notice) of receipt of a notice under clause 26, pay the amount specified in the notice to Laminar in cleared funds or authorise Laminar to deduct that amount from the Cash Account.

GST

- 18.7 The fees set out in Schedule 3 are exclusive of any goods and services tax (**GST**).
- 18.8 Laminar may vary its fee to take account of any change in the GST law, including any change in the GST rate and any amendment to *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and its associated regulations.
- 18.9 To the extent that any supply made under the Agreement is a taxable supply, the recipient of the supply must also pay GST in respect of the supply.
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19 Set off

- 19.1 Laminar may, after giving three Business Days written demand to the Client, apply the Assets to meet any payment of money which is due and payable by the Client under the Agreement. The Client authorises Laminar to do anything in the name of the Client which is necessary for Laminar to be able to give effect to the clause, including without limitation:
- (a) deducting any amount standing to the credit of the Cash Account; and
 - (b) realising any other Assets, and paying to itself the proceeds of that settlement.
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20 Term

- 20.1 This Agreement commences from the Effective Date and will continue in full force and effect until terminated by either party.
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21 Termination

- 21.1 Either Laminar or the Client may terminate the Agreement by giving at least thirty days' written notice (or such other period as the parties agree) to the other party.
- 21.2 This Agreement will terminate immediately:
- (a) following the appointment of a receiver or manager of the other party, or the making of an order or the passing of an effective resolution for the winding up of the other party; or
 - (b) if the other party makes any composition or arrangement with its creditors (other than for the purposes of a reconstruction) or is placed under official management.

Outstanding Fees and Expenses

- 21.3 Upon termination of the Agreement, the Client must pay to Laminar upon demand, such compensation and expenses as may be due as of the date of such termination, and must reimburse Laminar for any reasonable costs, expenses and disbursements incurred by Laminar pursuant to the termination and, if such payment is not made within 7 days after such demand is made, Laminar may exercise its rights under clause 19 (which survives the termination of the Agreement).

Transfer of Assets upon termination

- 21.4 Upon termination by:
- (a) the Client, the Client must provide full details during the notice period of the person to whom Laminar must transfer the Assets; or

- (b) the Custodian, the Client must within 60 days (or such other period as the parties agree) notify Laminar of details of any new custodian.

21.5 If such details are not provided during the notice period, Laminar may elect either to retain the Assets on the terms and conditions of the Agreement until it receives such details, or to deliver the Assets to the Client.

Deduct any amounts owing

21.6 Upon termination, Laminar is entitled and is authorised, to deduct from the Assets any amounts owing to it prior to the delivery of the Assets.

Return of Assets

21.7 Subject to Laminar being paid all outstanding fees and expenses, as soon as possible after receiving Proper Instructions requiring it to do so or within 10 Business Days of the Agreement being terminated, Laminar must transfer the Assets to the person nominated by the Client.

Return of Confidential Information

21.8 Within one month of the Agreement being terminated, each party must return all the Confidential Information of the other party which is in its possession, power, custody or control, as if the other party had made a request for the return of the Confidential Information.

Termination by default

21.9 A party (**Terminating Party**) may immediately terminate the Agreement by written notice to the other party (**Defaulting Party**) if:

- (a) the Defaulting Party is in breach of the Agreement and that breach has not been remedied within 10 Business Days after receipt of a notice in writing from the Terminating Party specifying the breach; or
- (b) an Insolvency Event occurs in relation to the Defaulting Party.

22 Client Acknowledgements

Risks

22.1 The Client acknowledges and agrees that holding property in local or foreign jurisdictions may involve the risk of loss, or other risks, and that Laminar accepts no liability whatsoever (including liability for negligence) and is not liable in any circumstances for any loss which results from investing in Australia or any other country. Such loss includes loss arising from:

- (a) the general risks of investing;
- (b) nationalisation, expropriation or other governmental actions; regulations of the banking or securities industries, including changes in laws or market rules; currency restrictions, devaluations or fluctuations; or market conditions affecting the orderly execution of securities transactions or affecting the value of assets;
- (c) loss due to forces beyond Laminar's control, including, but not limited to, strikes by any person, work stoppages by any person, acts of war or terrorism, insurrection, revolution, nuclear fusion, fission or radiation or acts of God;
- (d) the fraud, negligence or default of the Client or any of their employees, agents, advisers, contractors or directors (but not including Laminar or any person for whose acts or omissions Laminar is liable in accordance with the terms of the Agreement);
- (e) the act of any Australian or foreign government, municipal or state body, office, department or agency or delegate, employee or agent of them;
- (f) the fraud, negligence or default of any Authorised Person or former Authorised Person; and
- (g) changes in any laws or the imposition of new laws or Taxes.

22.2 The only liability of Laminar is as provided in clauses 23.4 to 23.6.

Laminar's services not exclusive

22.3 The services of Laminar under the Agreement are not exclusive. Laminar is free to provide similar services to others, and is not obliged to disclose to the Client anything which comes to its notice in the course of providing services to others, in its general business operations or otherwise than in the performance of the Agreement.

Anti-Money Laundering

22.4 The Client expressly acknowledges that:

- (a) from time to time, it may be required to provide KYC Information and to have such information verified by Laminar or the Custodian from time to time;
- (b) from time to time, Laminar or the Custodian may be required to, amongst other things:
 - (i) report any suspicious matters if Laminar or the Custodian reasonably believes that the Services are being used in the practice of laundering money or financing terrorism; and
 - (ii) submit any relevant KYC Information of the Client, without the Client's knowledge or consent, to the AUSTRAC Commissioner or any other Authority as required by the AML/CTF Act.

23 Indemnity and Liability

Indemnity

23.1 The Client indemnifies, and must keep indemnified, Laminar, its officers, employees, agents and representatives against all proceedings, claims, demands, damages, actions, reasonable amounts paid in settlement, reasonable costs and expenses, losses and liabilities of whatever nature (whether actual or contingent) suffered or incurred by or sustained or threatened against, Laminar (including interest and legal fees and expenses on a full indemnity basis) arising out of, or in connection with:

- (a) Laminar's observance of the Agreement, and out of the opening and maintenance of any accounts with the Custodian on behalf of the Client;
- (b) any transaction in relation to any of the Assets or the ownership or holding of any of the Assets;
- (c) there being insufficient funds available to Laminar to meet the acquisition price of a Security and all calls and demands for the payment of unpaid capital or portions in respect of them;
- (d) any Tax, brokerage, commissions, acquisition price and costs, penalties and other expenses arising out of any acquisition, holding or disposal of a Security under the Agreement or the performance of its obligations under the Agreement and all costs and expenses incidental to any of the foregoing;
- (e) Laminar acting or omitting to act in accordance with a Proper Instruction;
- (f) certification and reporting requirements, claims for exemption or refund, additions for late payment, interest, penalties and other expenses (including legal expenses) that may be assessed against Laminar on account of the Client or any Security;
- (g) any actions, suits, proceedings, claims and demands which may be brought or threatened against Laminar by a holder of an interest or an investor in a Trust or a person who holds a charge or security over any property of a Trust or a unit, security or interest in a Trust including, but not limited to a claim under an external complaints resolution scheme; or
- (h) the appointment of, or the acts or omissions of, an Agent appointed under clause 15.1.

23.2 Each indemnity in the Agreement survives the expiry or termination of the Agreement.

Enforcing right of indemnity

23.3 Laminar need not incur expenses or make payment before enforcing a right of indemnity under the Agreement.

Liability of Laminar

23.4 Laminar is liable for and indemnifies the Client for any claim, damage, expense, loss or liability arising in any way out of or in connection with the Agreement to the extent that it directly results from the fraud, wilful default or negligence of Laminar.

23.5 For the purposes of this clause it is agreed that Laminar cannot be regarded as being negligent or in wilful default to the extent to which any failure by Laminar to satisfy its obligations under the Agreement has been caused or contributed to by a failure by the Client to fulfil its obligations under or in relation to the Agreement, the Trust or any other act or omission of the Client.

23.6 The liability of Laminar in connection with clauses 23.4 to 23.5 will not exceed the value of the Assets, at the time at which such fraud, negligence or wilful default, was discovered, or could have reasonably been discovered.

23.7 Laminar is not liable to the Client for any damage or loss resulting from or caused by:

- (a) any acts, omissions or insolvency of the Custodian, other Securities System, or broker.
- (b) events or circumstances beyond Laminar's control including currency restrictions, disruption of the normal procedures and practices of any securities market, power or communications services failure, acts of war or terrorism, riots, revolution, acts of God;
- (c) the general risks of investing; and
- (d) acting in good faith on Proper Instructions.

No liability for Client's indirect loss

23.8 In no event is Laminar liable to the Client or any other person for indirect, special or consequential damages.

No liability to holders of units

23.9 Laminar is not liable in any way to the holder of any unit, security or interest in any Trust or any person who holds a lien or charge over such unit, security or interest.

Not responsible for accuracy

23.10 Laminar is not responsible for the accuracy or completeness of any information received from the Client or third parties including where such information is passed from or accessed by the Client or third party.

24 Taxes

Client agrees to bear any taxes

24.1 The Client agrees to bear any Taxes payable or assessed in connection with the Agreement including the delivery or transfer of the Securities to Laminar or to the Custodian or any other person from Laminar in accordance with the Agreement and the Custodian Agreement.

25 Representations and Warranties

25.1 Each party represents and warrants to the other that as at the date of the Agreement and during the term of the Agreement:

- (a) it has the power to enter into and perform its obligations under the Agreement; and

- (b) the Agreement is valid and binding on it.
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26 Notices

- 26.1 A notice, consent or other communication under the Agreement is only effective if it is in writing, signed and either left at the addressee's address or sent to the addressee by mail, fax or email. If it is sent by mail, it is taken to have been received 3 working days after it is posted. If it is sent by fax, it is taken to have been received when the addressee actually receives it in full and in legible form. If it is sent by email, it is taken to have been received when it is received by the addressee's email server.
- 26.2 A person's address, fax number and email are those set out below, or as the person notifies the sender:

Laminar Capital

Address: PO Box 16230 Collins Street West, Melbourne VIC 8007

Fax number: 03 9001 6933

Email: settlements@laminarcapital.com.au

Attention: New Accounts

Client

The details set out in the Laminar Client Account Application.

27 Amendments

- 27.1 This Agreement cannot be amended except in writing executed by each party.
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28 Governing law

- 28.1 This Agreement is governed by the law in force in Victoria.
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29 Operation of the Agreement

- 29.1 This Agreement contains the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by the Agreement and has no further effect.
- 29.2 Any right that a person may have under the Agreement is in addition to, and does not replace or limit, any other right that the person may have.
- 29.3 Any provision of the Agreement which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make the Agreement enforceable, unless this would materially change the intended effect of the Agreement.
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30 Confidentiality

Confidential Information

- 30.1 Each of the Client and Laminar acknowledges the Confidential Information is passed to and received by it in confidence and must not disclose the Confidential Information to any person except as permitted by the Agreement.

Permitted disclosures

- 30.2 Each of the Client and Laminar may disclose Confidential Information:
- (a) to any of its representatives or agents (including legal advisers) for the purposes of the Agreement;
 - (b) to any extent required by the AML/CTF Act;

- (c) to the extent required to assist the Client's auditors; and
 - (d) to the extent required by the ASX Listing Rules (where applicable), and must immediately notify the other if it becomes aware that such disclosure may be required.
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31 Privacy

- 31.1 Each party acknowledges that Personal Information may be exchanged between the parties pursuant to the terms of the Agreement.
 - 31.2 The Client consents to the collection, use and disclosure of any Personal Information (as that term is defined in the *Privacy Act 1988* (Cth)) by Laminar for the purposes of the Agreement.
 - 31.3 Without limiting clause 31.2, each party undertakes to use its best endeavours to ensure that at all times during the term of the Agreement, it will comply with the *Privacy Act* and all other applicable laws regulations, principles, standards, codes of conduct or guidelines concerning the handling of Personal Information under that Act or with any request or direction arising directly from or in connection with the proper exercise of the functions of the Privacy Commissioner or the AUSTRAC Commissioner under the AML/CTF Act.
 - 31.4 If a party becomes aware that a breach of clause 31.2 or 31.3 has occurred, or if it becomes aware that the law may require disclosure, it must immediately notify the providing party in writing.
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32 Counterparts

- 32.1 This Agreement may be executed in counterparts.