

CMC Markets Stockbroking Limited

ABN 69 081 002 851 and AFSL No. 246381

# Annexure B – Investment Portfolios Subscription Terms of Service

to the CMC Markets Invest Terms and Conditions

14 September 2023

**CMC**  
INVEST

This Annexure B, dated 14 September 2023, applies if You (as defined below) subscribe to receive the Services (as defined below) on your Trading Account. By subscribing to receive the Services, you agree to those Services being provided pursuant to these terms and conditions (**Subscription Terms**).

These Subscription Terms constitute an agreement between you and CMC Markets Stockbroking Limited (**CMC Markets, or We**), trading as CMC Markets Invest, in addition to the CMC Markets Invest Terms and Conditions (as amended from time to time) applying to your Trading Account.

For the avoidance of doubt, the Subscription Terms apply in addition and supplemental to any other terms in the CMC Markets Invest Terms and Conditions. In the event of any inconsistency between these Subscription Terms, the CMC Markets Invest Terms and Conditions and any other term or document referred to in either document, these Subscription Terms will prevail.

## 1 Definitions and Interpretation

1.1 For the purposes of these Subscription Terms, the defined terms in the CMC Markets Invest Terms and Conditions have the same meaning in these Subscription Terms, unless the context requires otherwise.

1.2 The following capitalised terms have the following meanings:

**Fees** means the fees and charges charged for the Services and set out on our Website and/or in the FSG.

**FSG** means the CMC Markets Invest Financial Services Guide, as amended from time to time.

**Investment Portfolios** means the model portfolio trading strategies made available on your Trading Account for subscribers of the Services.

**Service-related content** means the information, content, data, analyses, and opinions provided to you by CMC Markets or its Suppliers arising out of or in connection with the Services.

**Services** means any or all of the services that you have subscribed to receive from CMC Markets and that CMC Markets has agreed to provide to you in accordance with these Subscription Terms including, among other things, the following services:

- Investment Portfolios;
- analysis and updates; and
- other services provided by CMC Markets from time to time,

which may be provided in various forms, including but not limited to text, web content, photographs, video content, audio content and graphics.

**Subscription Terms** means these terms and conditions forming an agreement between you and CMC Markets for the provision of the Services by CMC Markets on a subscription basis.

**Suppliers** means any third party provider or supplier of goods and services to CMC Markets in connection with the Services, from time to time.

**Terms and Conditions** means the CMC Markets Invest Terms and Conditions, as amended from time to time.

**Website** means the CMC Markets website located at [www.cmcmarkets.com.au](http://www.cmcmarkets.com.au).

**You** means the person that accesses CMC Markets' platform and subscribes to the Services .

1.3 The principles of interpretation set out in clause 2 of the CMC Markets Invest Terms and Conditions shall have effect as if set out in full in this Subscription Agreement.

## 2 Acceptance

In subscribing to the Service, you agree to receive, and CMC Markets agrees to provide the Service, pursuant to these Subscription Terms and the terms and disclosures set out in the FSG.

## 3 Use and restrictions

3.1 You may access or use the Services and Service-related content solely for your non-commercial use and benefit. You agree not to:

- access or use the Services or the Service-related content for commercial purposes without obtaining a licence to do so from us or our licensors);
- resell, transfer or distribute the Services or Service-related content for use by (or for the benefit of) any other person or entity;
- access or use the Services in any way that violates any applicable federal, state, local or international law or regulation; or
- upload, post, reproduce or distribute the Services, Service-related content or other material protected by copyright or any other intellectual property right of CMC Markets and its Suppliers without CMC Markets' prior written consent.

## 4 Fees, payment and automatic renewal

4.1 In consideration of CMC Markets providing the Services, you must pay the Fees in accordance with this clause 4. The Fees are inclusive of goods and services tax (**GST**). The Fees may be discounted or waived from time to time, at CMC Markets' absolute discretion.

4.2 Only valid payment methods acceptable to CMC Markets may be used to complete a subscription via our Website. You represent and warrant that you are authorised to use your designated payment method. You authorise us to charge your designated payment method for the total amount of your purchase (including any applicable taxes and any administrative charges). If a payment is not successfully settled, CMC Markets reserves the right to suspend or terminate your access to the Services and Service-related content.

4.3 If you purchase a subscription from CMC Markets to access the Services, your subscription will automatically renew for subsequent

subscription periods of equal length unless you cancel your subscription at least 24 hours prior to the renewal date. CMC Markets will automatically bill your designated payment method upon the expiration of your current subscription period. You may cancel your subscription at any time prior to the expiration of your current subscription however, you will still be charged in full for your current subscription. We will not give any pro-rated refunds if you cancel your subscription period early.

4.4 You represent and warrant that all payment information provided by you (if any) is accurate and up-to-date. You also agree to maintain and update your information as necessary so that it remains accurate and current. If any information you provide is inaccurate or not up-to-date, CMC Markets reserves the right to cancel your subscription.

4.5 CMC Markets reserves the right to correct any payment errors and revise your purchase accordingly (which may include charging the correct price) or to cancel the purchase and refund any amount charged.

4.6 Except to the extent required by law, payments are non-refundable. However, CMC Markets may in its sole discretion, provide a refund or discount in certain circumstances

### 5 Free Trials

5.1 CMC Markets may from time to time and at its sole discretion offer a free trial period to the Services (**Free Trial**). CMC Markets reserves the right, in its sole discretion, to determine your free trial eligibility. If you agree to partake in any Free Trial, your use of the Free Trial is subject to these Subscription Terms.

5.2 You may cancel your Free Trial at any time during the trial period. If you do not do so, and unless stated otherwise by CMC Markets, the Free Trial will automatically convert to a paid subscription upon expiration of the trial period and we will begin billing your designated payment method on a recurring basis for your subscription until you cancel your subscription or we terminate it.

### 6 Disclaimers

6.1 You acknowledge and agree that the Services and Service-related content:

- (a) includes the proprietary information of CMC Markets or our Suppliers;
- (b) does not constitute personal financial product advice as the Services and Service-related content have been provided and/or prepared without considering your objectives, financial situation or needs;
- (c) is not intended as and does not constitute an offer or solicitation for the purchase or sale of any financial product;
- (d) is provided solely for general informational purposes;
- (e) is not warranted to be complete, accurate or timely; and
- (f) may be drawn from data published on various dates.

6.2 Before making any investment decision on the basis of the Services or Service-related content, you agree to consider, with or without the assistance of a financial adviser, whether the Services and/or Service-related content is appropriate for you having regard to your particular investment needs, objectives and financial circumstances.

6.3 You acknowledge and understand that past performance is not a guarantee of future results and that the value and income derived from investments may go down as well as up. CMC Markets does not guarantee the performance of, or returns on any investment, and will not be responsible for any trading decisions, damages or other losses related to the Service-related content or use of our Services. Any returns presented in Service-related content are purely hypothetical based on the percentage change between the price at the time of the recommendation and the current or sell price at the time of publication.

6.4 You agree to release and discharge CMC Markets, and agree that CMC Markets shall not be liable whatsoever for any loss which results from the general risks of investing.

6.5 This clause 6 will survive termination of your subscription and/or these Subscription Terms.

### 7 Disclaimer of Warranties and Liabilities

7.1 To the maximum extent permitted by law, CMC Markets excludes all rights, representations, guarantees, conditions, warranties, undertakings, remedies or other terms in relation to the Services and Service-related content. We do not warrant the completeness or accuracy of the Services or Service-related content presented. We make no promises that the Services will be delivered to you on an uninterrupted, timely, secure or error-free basis. You acknowledge and agree that CMC Markets is not responsible for the accuracy or completeness of any information received from third parties and passed to you, or used by CMC Markets in providing the Services.

7.2 CMC Markets will not be liable for any breach of a provision of any relevant legislation, negligence, injury, death, lost profits, loss of files, data or use, economic loss, loss of reputation or losses or damages incidental or consequential to the provision of the Services, except to the extent that it is caused by the negligence or dishonesty of CMC markets or its employees, agents or representatives.

7.3 CMC Markets' maximum aggregate liability shall in any event be limited to:

- (a) in the case of goods, the replacement or repair of the goods; or
- (b) in the case of services, the re-supply of the services.

7.4 Nothing in these Subscription Terms is intended to have the effect of excluding, restricting or modifying the application of all or any of the provisions of Part 5-4 of the Australian Consumer Law in Schedule 2 of the *Competition and Consumer Act 2010* (Cth) (**ACL**), or the exercise of a right conferred by such a provision, or any liability of ours in relation to a failure to comply with a guarantee that applies under Division 1 of Part 3-2 of the ACL to a supply of services.

7.5 Nothing in these Subscription Terms limits or affects the exclusions and limitations set out in our Website's terms and conditions or the Terms and Conditions.

7.6 This clause 7 will survive termination of your subscription and/or these Subscription Terms.

### 8 Indemnities

8.1 To the maximum extent permitted by law, you agree to indemnify and keep indemnified CMC Markets from and against all claims (or threatened claims), suits, demands, damages, costs (including legal costs incurred in dealing with any threatened claim), loss and other liabilities or expenses made by any person against CMC Markets and any other amounts howsoever characterised (**Claims**) which arises

directly or indirectly from CMC Markets providing the Services to you.

8.2 You agree to hold CMC Markets harmless and release CMC Markets from any liability in respect of any loss, harm or damage incurred by you or any other person, as a result of your access or use of the Services in accordance with these Subscription Terms.

8.3 You agree to indemnify CMC Markets from and against all Claims suffered by any person where you have directly or indirectly provided unauthorised access or reproduced or disclosed the Services or Service-related content to such person.

8.4 Despite anything else in these Subscription Terms, clauses 8.1, 8.2 and 8.3 will not apply to any Claims to the extent such Claims are caused by the negligence, fraud or willful misconduct of CMC Markets.

8.5 This clause 8 will survive termination of your subscription and/or these Subscription Terms.

## 9 Intellectual Property Rights

CMC Markets is the owner or the licensee of all present and future intellectual property rights in or arising out of or in connection with the Services (other than intellectual property rights in any materials provided by you). You acknowledge that by subscribing to our Services, you do not acquire any rights in or to the Services or Service-related content, other than the limited right to use access and use of the Services and Service-related content from our Website in accordance with clause 3 of these Subscription Terms.

## 10 Personal Information and Privacy

10.1 We will use any personal information you provide to us to:

- (a) provide the Services;
- (b) process your payment for the Services;
- (c) send you news, analyses and insights; and
- (d) inform you about similar products or services that we provide, but you may stop receiving this information at any time by contacting us.

10.2 Further details of how we will handle personal information we collect from you are set out in our Privacy Statement at <https://www.cmcmarkets.com/en-au/privacy>.

## 11 Termination, suspension, modification or discontinuation

11.1 Without affecting any of our other rights, we may, acting reasonably, suspend the performance of Services, or terminate your subscription:

- (a) with immediate effect, if you fail to pay any amount due under these Subscription Terms on the due date for payment; or
- (b) with immediate effect by giving written notice to you if you commit a material breach of any other term of these Subscription Terms and that breach is not capable of remedy or if capable of remedy you fail to remedy that breach within a period of 14 days after being notified in writing to do so.

11.2 Termination of your subscription or these Subscription Terms does not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination.

11.3 CMC Markets may modify, suspend or discontinue all, or part of the Services for any reason. In the event we discontinue the all or part of the Services pursuant to this clause 11.3, CMC Markets' only obligation to you is to provide you with a pro-rated refund, at your request.

## 12 Force Majeure

12.1 We will not be liable or responsible for any failure to perform, or delay in performance of, any of our obligations under these Subscription Terms that is caused by forces or reasons beyond our reasonable control, including but not limited to, strikes, work stoppages, and acts of war or terrorism (each a **Force Majeure Event**).

12.2 If a Force Majeure Event prevents the substantial performance of our obligations under these Subscription Terms, our obligations under these Subscription Terms will be suspended. Where the Force Majeure Event persists for a period of at least 60 days, we may give you notice of termination of the Service.

12.3 You agree to release and discharge CMC Markets, and agree that CMC Markets shall not be liable whatsoever for any loss which indirectly or directly results from a Force Majeure Event, including any delay or failure in providing the Service or termination of the Service.

## 13 General

13.1 These Subscription Terms are intended to supplement the legal documents relating to your Trading Account. To the extent of inconsistency between these Subscription Terms and those documents, these Subscription Terms will prevail.

13.2 These Subscription Terms may be terminated in any manner set out in the Terms and Conditions. Termination does not affect outstanding obligations under these Subscription Terms which are undischarged at the time of termination. Each indemnity in these Subscription Terms survives the termination of these Subscription Terms.

13.3 These Subscription Terms may be varied in the manner set out in the Terms and Conditions.

13.4 Each party may give notice to the other party in the manner set out in the Terms and Conditions.

13.5 If any provision of these Subscription Terms is invalid, void or unenforceable, all other provisions which are capable of separate enforcement without regard to an invalid, void or unenforceable provision are and will continue to be of full force and effect in accordance with their terms.

These Subscription Terms are governed by the laws of New South Wales. You and we both agree that the courts in New South Wales will have exclusive jurisdiction.

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