

# Morningstar® Adviser Research Centre (ARC) Terms and Conditions of Use

## **MORNINGSTAR® ADVISER RESEARCH CENTRE TERMS AND CONDITIONS OF USE**

USE OF THE MORNINGSTAR ADVISER RESEARCH CENTRE PRODUCT IS STRICTLY LIMITED TO THOSE INDIVIDUALS WHO AGREE TO THESE TERMS AND CONDITIONS BY CLICKING THE "I AGREE" BUTTON. IF YOU DO NOT UNDERSTAND AND AGREE TO ALL OF THE TERMS AND CONDITIONS, YOU SHOULD NOT CLICK "I AGREE". BY CLICKING THE "I AGREE" BUTTON, YOU ACKNOWLEDGE THAT YOU HAVE READ THIS DOCUMENT, UNDERSTAND IT, AND AGREE TO BE LEGALLY BOUND BY ITS TERMS.

BY CLICKING THE "I AGREE" BUTTON, YOU ALSO AGREE THAT: (1) You will not hold out Morningstar as providing 'personal advice' in relation to any 'financial product' (as those terms are defined in the Corporations Act 2001); (2) You will not distribute Output from the Product except as expressly allowed under this agreement; (3) the Product has been created independently of You; (4) You understand and agree that Morningstar is acting only as a third-party research provider in making the Product available to You; (5) You are not affiliated with Morningstar and that Morningstar is not providing 'personal advice' to You or Your Clients; (6) at all times, You remain solely responsible for any personal advice You give to Your clients, whether a direct Client of You or that of any of your recipients.

IN ADDITION TO THESE TERMS AND CONDITIONS, YOUR USE OF THE PRODUCT MAY ALSO BE SUBJECT TO THE TERMS OF A SUBSCRIBER LICENCE, WHICH A SUBSCRIBER MAY HAVE ENTERED INTO IN ORDER TO OBTAIN YOUR ACCESS TO THE PRODUCT. "Subscriber" and "Subscriber Licence" are defined below. The Subscriber Licence may contain additional distribution rights, limitations on use, or other terms.

1. The Product Licensed. The term "**Product**" or "**Morningstar Adviser Research Centre**" means the computer programs, Internet web pages, data, analyses, screens, manuals, and other information of any kind that are housed on, and accessible through, the Morningstar Adviser Research Centre ("**ARC**") application, which is a web-based platform located at URL: <https://arc2.morningstar.com.au> ("**ARC Web Site**"), as well as all updates, enhancements and modifications thereto, and all intellectual property contained in the ARC Web Site. The Product includes: (i) a database of data and analyses, and updates thereto, accessible via the ARC Web Site by means of a subscription for a Subscriber (the "**Database**"); (ii) the format and organization of information entered by a user of the Product (such information, "**User-Entered Information**"), and the integration of such User-Entered Information with the Database ; (iii) the HTML code, Java code, text, help screens, CGI scripts, other computer programs and associated documentation that provide a graphical user interface and system to store, process, retrieve, and output information contained in either or both the Database and the User- Entered Information (the "**Programs**"); (iv) the format and organization of information output by the Product; and (v) Internet web page reports, spreadsheets, graphs, charts, documents and other materials, whether in printed, electronic or any other form, that contain copies of all or part of the Database or User-Entered Information, together with any works derived from such materials ("**Product Output**").

2. Subscriber. The term "**Subscriber**" means the individual or entity with whom Morningstar enters into a separate agreement (the "**Subscriber Licence**") to provide You, the Authorized User, with a licence to access and use the Product.

3. Subscriber Licence. If the terms of the Subscriber Licence differ from the terms of this User Agreement, the terms of the Subscriber Licence shall be controlling to the extent there is an actual conflict of terms. The Subscriber Licence includes the details of Your ARC package, including the content You may access. The Subscriber Licence may also contain additional permissions regarding Your distribution of Product Output. Please contact Your Subscriber or Morningstar with questions regarding the terms of Your Subscriber Licence. If You are accessing the Product as part of a free trial period, You may not have a Subscriber Licence.

3. Authorized User. The term "**Authorized User**" or "**You**" means the individual whom the Subscriber permits to access the Product and who has been issued a unique user name and password authorised by Morningstar. Unless otherwise agreed in the Subscriber License, an Authorised User must be the Subscriber or a partner, employee, or agent of the Subscriber to be an Authorised User of the Product.

4. Agreement. Your Subscriber Licence (if You are subject to one) and these Terms and Conditions together form the "**Agreement**", under which Morningstar provides You with a licence to access and use the Product and to distribute Product Output.

5. User. "**User**" shall mean any Authorized User and/or Client to whom Product Output is distributed.

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6. Morningstar. "**Morningstar**" shall mean the Morningstar entity that licenses the Product to You. The term "Morningstar" shall mean the following entities in the following jurisdictions: 1) Australia, Morningstar Australasia Pty Ltd. and 2) New Zealand, Morningstar Research Limited.

7. Grant of License. This Agreement does not constitute a sale of the Product. Subject to these terms and conditions and any additional terms in Your Subscriber Licence, Morningstar grants to You the following limited nonexclusive, nontransferable rights and licenses to use and access the Product and Product Output within the Territory defined in the Subscriber Licence:

7.1 Internal Use. You may use the Programs and Database to generate Product Output for Your internal business use. Except as expressly permitted in section 7.2 External Use, You may not provide Product Output to any person other than another Authorized User or use Product Output for the benefit of any third party.

7.2 External Use.

(a) You may use the Programs to input User-Entered Information solely for Clients of an Authorised User. In this Agreement, "**Clients**" means individual investors to who are current or prospective financial service clients of an Authorised User.

(b) You may use the Programs and User-Entered Information to undertake research and analysis, including producing graphs/reports in electronic and/or hardcopy form and distributing these graphs/reports on a one-to-one basis to Clients of an Authorised User, subject to the following conditions:

- (i) the Product Output is provided in connection with, and relates to, information and independent recommendations an Authorised User is providing to the Client that have not been derived from the Product;
- (ii) the quantity and value of the information and independent recommendations provided predominates over the quantity and value of the Product Output distributed to the Client;
- (iii) the Product Output distributed to the Client relates directly to specific goals, needs, or interests of the Client;
- (iv) no Product Output or any portion thereof is used as part of a general mailing or other distribution to more than one Client, and no substantially identical Product Output is distributed to multiple Clients; and
- (v) in no event shall the aggregate Product Output distributed to Clients consist of the Database or a substantial portion of the Database.

You agree that the distribution of any Product Output that does not meet all of the conditions set forth above in subsections (i) - (v) will require the express prior written consent of Morningstar, and the payment of additional fees or royalties.

**For avoidance of doubt, no person other than an Authorised User may access the Product or provide Product Output to any other person.**

(c) Attribution/Disclaimer. Any Product Output that is copied or distributed and that does not contain a similar disclosure statement must include the following statement, in legible type:

© [insert year] Morningstar, Inc. All rights reserved. Neither Morningstar, its affiliates, nor the content providers guarantee the data or content contained herein to be accurate, complete or timely nor will they have any liability for its use or distribution. Any general advice or 'regulated financial advice' under New Zealand law has been prepared by Morningstar Australasia Pty Ltd (ABN: 95 090 665 544, AFSL: 240892) and/or Morningstar Research Ltd, subsidiaries of Morningstar, Inc, without reference to your objectives, financial situation or needs. For more information refer to our Financial Services Guide (AU) and Financial Advice Provider Disclosure Statement (NZ) at [www.morningstar.com.au/s/fsg.pdf](http://www.morningstar.com.au/s/fsg.pdf) and [www.morningstar.com.au/s/fapds.pdf](http://www.morningstar.com.au/s/fapds.pdf). You should consider the advice in light of these matters and if applicable, the relevant Product Disclosure Statement before making any decision to invest. Our publications, ratings and products should be viewed as an additional investment resource, not as your sole source of information. Morningstar's full research reports are the source of any Morningstar Ratings and are available from Morningstar or your adviser. Past performance does not necessarily indicate a financial product's future performance. To obtain advice tailored to your situation, contact a professional financial adviser. Some material is copyright and published under licence from ASX Operations Pty Ltd ACN 004 523 782.

7.3 Export of Data from Database. You may export data from the Product only where the Product itself provides a built-in export capability (ie. without the use of Your computer's "cut and paste" or other similar functions). Data exported from the Product may only be used in a third party spreadsheet program and only upon the following conditions:

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- (i) any and all exported data, in whatever form, shall be deemed Product Output under this Agreement, and copying and distributing of such Product Output shall be subject to the terms of this Agreement and the Subscriber Licence;
- (ii) such exported data shall be limited to information needed to provide personal advice to a particular current client on a one-to-one basis;
- (iii) You shall not provide exported data to prospective clients or any other third parties; and
- (iv) in order to provide such information and independent recommendations to such Client, You require use of a function of a spreadsheet program that is not available in the Product and the exported data is limited to data necessary to use such function. Except as specifically provided in this Section 7.3 Export of Data from Database or as otherwise set forth in a Subscriber Licence, You shall have no right to export any data from the Database.

8. **Restrictions on Use.** No User may: (i) use, copy, modify, merge, install, transfer, or distribute the Product or Product Output, except as expressly provided in this Agreement; (ii) export any data or information from the Product, except as provided in Section 7.3 Export of Data from Database; (iii) reverse-engineer, decompile, translate, disassemble, or separate the components of the Product (including without limitation viewing or otherwise obtaining HTML source code), or as specified by law; (iv) sublicense, rent, sell, or lease the Product or any part thereof; (v) use any program, procedure, device, or method other than the Programs and a web browser to access, use, reproduce, or process the Database, Product Output, or User-Entered Information or any part thereof, without Morningstar's express prior written authorization; or (vi) use the Product or any part thereof for third-party training, commercial time-sharing, or service bureau use. **No User shall distribute any Product Output as part of a general distribution or for advertising or promotional purposes.**

9. **Authorized User Name and Password.** You agree to keep Your user name and password confidential and not allow any other party to use them to access the Product.

10. **Payment.** Your access to and use of the Product is subject to Morningstar's timely receipt of the subscription and any other fees set forth in the Subscriber License.

11. **Term.** The initial Subscription Term of this Agreement shall commence on the date that You agree to these Terms and Conditions of Use and end on the date set forth in the Subscriber License, subject to all extensions of the Subscriber Licence term or early termination for any reason.

12. **Ownership.** You acknowledge and agree that: (i) the Product, including, without limitation, any modifications, enhancements and updates, and any originals and copies thereof, in whole or in part, and all intellectual property rights therein (collectively, "**Proprietary Information**"), is owned by Morningstar and/or its third party content providers ("**Content Providers**"), as applicable; (ii) the Product shall be treated as any other copyrighted material and is protected by applicable copyright and intellectual property law; (iii) the Proprietary Information contains valuable copyrighted and proprietary material of Morningstar; (iv) the Proprietary Information is licensed, rather than sold, to Users pursuant to this Agreement; and (v) Users have no rights in the Proprietary Information, other than the rights and licenses granted to Users pursuant to this Agreement. Morningstar may disclose additional information to Users in the form of upgrades, documentation, or other support during the Subscription Term, which shall also be deemed Proprietary Information.

13. **Trademarks.** You acknowledge that Morningstar has acquired, and is the owner of, trademark rights in the names and word marks MORNINGSTAR, MORNINGSTAR RATING, and the MORNINGSTAR STYLE BOX and in the design marks, MORNINGSTAR, MORNINGSTAR RATING AND DESIGN, AND MORNINGSTAR STYLE BOX AND DESIGN. Users shall not make use of any of these marks or otherwise reference the Morningstar name or any derivation thereof, except as Morningstar may specifically authorize in this Agreement, in the Subscriber License, or in a separate writing. You hereby acknowledge that these names and marks are famous and internationally known. You shall not, at any time or for any reason, challenge the validity of, or Morningstar's ownership of, the foregoing names and marks, and You waive any right to do so. All marks not owned by Morningstar are the property of their respective owners.

14. **Your Warranty Rights.**

(a) **Statutory Protections.** YOU MAY BE ENTITLED TO WARRANTY PROTECTIONS UNDER APPLICABLE TRADE PRACTICES, CONSUMER, AND SMALL BUSINESS PROTECTION LAWS, WHICH MAY INCLUDE THE AUSTRALIAN CONSUMER LAW, THE AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION ACT 2001, OR OTHER LAW (REFERRED TO AS "**TRADE PRACTICES LAWS**" IN THIS AGREEMENT). NOTHING IN THIS AGREEMENT IS

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INTENDED TO, OR SHALL BE INTERPRETED TO, LIMIT YOUR RIGHTS IN A MANNER INCONSISTENT WITH THOSE LAWS.

(b) Express Limited Warranty. In addition to any other warranty rights You may have under applicable Trade Practices Laws, Morningstar warrants that it will make commercially reasonable efforts (or their equivalent under applicable law) to ensure that the Product is free of viruses and damaging or disabling code, errors, or other defects. Morningstar will also make commercially reasonable efforts to correct any correctable errors or defects in the Product within a reasonable amount of time.

(c) Waiver/Disclaimer of Other Warranties. To the extent permitted under applicable Trade Practices Laws, Morningstar disclaims and excludes all other warranties, conditions, and other terms express or implied, including without limitation: (i) any implied terms as to quality, conformance with description, or fitness for purpose, (ii) the absence of viruses and damaging and disabling code, (iii) that the product, the product output or any portion of any of them will be error-free; (iv) that access to the product, the product output or any portion of the foregoing will be uninterrupted; (v) that the product, the product output or any portion of it is compatible with any particular computer software or platform; (vi) that errors or defects in the product and/or product output will be correctable or corrected; or (vii) that the product, the product output or any portion of it complies with the requirements of any exchange, regulatory agency or other organisation. Neither Morningstar nor any of its affiliates nor any of their third party licensors guarantee the adequacy, accuracy, timeliness, or completeness of the product(s) or any component thereof. The product(s) is/are supplied "as is".

### 15. Compliance with Laws and Regulations; Financial Services Guide.

(a) Compliance with Laws and Regulations. You shall ensure that Your use of the Product complies with all applicable laws, rules, and regulations. You are solely responsible for obtaining appropriate regulatory approval for the use and distribution of any Product Output.

(b) Financial Services Guide. You agree that where any User/recipient of Product Output is a 'retail client' (as that term is defined in the Corporations Act 2001 (Cth)), You will (pursuant to Corporations Regulations 7.7.02(7)) either: (i) give Morningstar's Financial Services Guide to the retail client, or (ii) inform the retail client how to obtain Morningstar's Financial Services Guide, which is available from [www.morningstar.com.au/fsg](http://www.morningstar.com.au/fsg).

### 16. Limitation of Liability.

(a) Statutory Protections. YOU MAY BE ENTITLED TO PROTECTIONS REGARDING LIMITATIONS OF LIABILITY UNDER APPLICABLE TRADE PRACTICES LAWS. NOTHING IN THIS AGREEMENT IS INTENDED TO, OR SHALL BE INTERPRETED TO, LIMIT YOUR RIGHTS IN A MANNER INCONSISTENT WITH TRADE PRACTICES LAWS.

#### (b) Limitations of Liability.

(i) Neither party excludes or limits liability for:

- personal injury or death;
- fraud or fraudulent misrepresentation;
- either Party's breach of Section 19 'Confidentiality';
- misuse or theft of the Product or either party's intellectual property or data, or
- any other liability which cannot be excluded or limited under applicable Trade Practices Laws.

(ii) Subject to Sections 16(a) and 16(b)(i), in no event shall either party be liable to the other for any of the following:

- (1) loss of profits;
- (2) loss of sales;
- (3) loss or corruption of data;
- (4) business interruption; or
- (5) any other indirect, special, or consequential loss or damage howsoever arising.

(iii) Additionally, except as otherwise specifically prohibited by applicable law, in no event shall Morningstar be liable to You or any party claiming through You for any losses arising from: (1) use of the Product outside of the Territory or (2) any investment decisions made on the basis of any use of the Product.

#### (c) Liability Cap. Subject to Sections 16(a) and 16(b)(i):

(i) Morningstar's total liability under or in connection with the Agreement shall be limited, at the option of Morningstar, to one or more of:

- (1) resupplying the Product with the breach being remedied, or

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- (2) paying the cost of replacing the Product with a substitute that functions substantially in accordance with the Product's specifications, or
  - (3) an aggregate amount equal to the total amounts paid by the Subscriber for the Product under the Subscriber Licence in the twelve (12) month period immediately preceding the most recent event giving rise to liability, or
  - (4) if the event giving rise to liability occurs within the first twelve (12) months of the subscription Term, an amount equal to the total amounts paid by the Subscriber under the Subscriber Licence for the first twelve (12) months of the subscription Term.
- (ii) Your total liability under or in connection with the Agreement shall be limited to:
- (1) an aggregate amount equal to the total amounts paid by the Subscriber for the Product under the Subscriber Licence in the twelve (12) month period immediately preceding the most recent event giving rise to liability, or
  - (2) if the event giving rise to liability occurs within the first twelve (12) months of the subscription Term, an amount equal to the total amounts paid by the Subscriber under the Subscriber Licence for the first twelve (12) months of the subscription Term.

(d) Subject to Sections 16(a) and 16(b)(i), the above provisions of Section 16(c) set out each party's entire liability, including any breach of either party's obligations, a breach of warranty, a tortious act or omission, an action arising out of a misrepresentation, a breach of statutory duty or any other liability which may arise from this Agreement or from the delivery or use of the Products.

17. Termination. Morningstar may terminate this Agreement if the Subscriber License is terminated for any reason, including nonpayment or: (i) if You breach or fail to materially comply with any of the terms or conditions of this Agreement, (ii) Morningstar provides You with notice of the breach, and (iii) You do not, within a reasonable amount of time, either comply with Morningstar's breach notice or notify Morningstar that You deny the basis of the breach notice.

18. Effect of Termination. Upon expiration or termination of this Agreement for any reason, all of Your rights regarding the Product, including the right to use or distribute Product Output internally or externally, shall terminate. Termination shall not relieve You of any liability for breach of this Agreement. Those provisions of this Agreement that would reasonably be expected to survive its expiration/termination shall so survive its expiration or termination.

19. Confidentiality. Except as expressly provided in this Agreement, You must keep confidential and shall not disclose, provide, or otherwise make available to any person the Proprietary Information. You (i) shall use best efforts, and shall employ reasonable security measures, to prevent any unauthorized disclosure of the Proprietary Information and (ii) shall immediately advise Morningstar if You learn of any actual or potential unauthorized disclosure or access. You hereby acknowledge that the Product is only being disclosed to You based on a confidential relationship established under this Agreement. You further agree that such information is to be used only as expressly permitted in this Agreement, and that the restrictions of this Agreement are necessary to protect the confidentiality of the information and to protect against the occurrence of irreparable injury or harm to Morningstar. Morningstar acknowledges that in the course of performing its obligations under this Agreement, Morningstar may become privy to information that You consider confidential and proprietary to Your business or Clients, including, but not limited to, information concerning the identities of Clients and other related data, internal controls, computer or data processing programs, business or financial affairs or methods of operations, accounts, transactions, proposed transactions, security procedures, trade secrets, know-how or inventions of You or Clients ("**Authorized User Confidential Information**"); provided, however, that Your Confidential Information shall not include any information that (i) is already in the public domain at the time of disclosure; (ii) is communicated to Morningstar by a third party not subject to any confidentiality obligations with respect to the Authorized User Confidentiality Information; (iii) is derived independently by Morningstar; (iv) is excepted from this provision by the written permission of an authorized representative of You; or (v) Morningstar is required to disclose pursuant to a valid subpoena or other order of a court or government agency of competent jurisdiction. Morningstar will use commercially reasonable measures, but in no event measures that are any less protective than those Morningstar uses to protect its own confidential and Proprietary Information, to ensure that the Authorized User Confidential Information is not disclosed to any third party.

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20. No Financial Product Recommendations. You acknowledge that: (i) Morningstar does not recommend any financial product should be bought, sold, or held by the Users or Clients; (iii) nothing within the Product should be construed as an offer, nor the solicitation of an offer, to buy or sell securities by Morningstar; (iv) nothing within the Product is intended to be or to be treated as an inducement or invitation to engage in any kind of investment activity.

21. Audit. At any time during the term of this Agreement, but no more than once per calendar quarter and with notice to You, Morningstar may request that You provide to Morningstar, and certify the authenticity of, such information as Morningstar may reasonably require regarding Clients who receive Product Output. Morningstar shall have the right, upon reasonable prior notice to You, to audit Your records regarding the foregoing to verify Your compliance with this Agreement.

22. Inadequacy of Legal Remedy. You hereby acknowledge that Morningstar's legal remedies (including the payment of monetary damages) may not be sufficient in the event any User breaches any provisions of this Agreement regarding the ownership, use, copying, distribution, confidentiality, or nondisclosure of the Product, Product Output, or other Proprietary Information, and that Morningstar would suffer continuing and irreparable injury to its business as a direct result of such breach. Therefore, in the event of any such breach, Morningstar may seek injunctive relief necessary to prevent or cure such breach (including temporary and preliminary relief, and relief by order of specific performance).

23. Governing Law; Place for all Disputes. In the event of any legal proceedings arising out of this Agreement or the performance thereof, You agree that all disputes arising out of this Agreement or the performance thereof shall be determined exclusively under the laws of, and in the courts located in New South Wales, Australia without regard to its conflict of law provisions. This Agreement will not be governed by the conflict of law rules of any jurisdiction or the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.

24. Assignment. Neither party may assign this Agreement without the express written consent of the other party, which consent will not be unreasonably withheld; provided, however, Morningstar may assign its rights and obligations under this Agreement to a related body corporate upon notice to the Authorised User and Subscriber.

25. Severability. If any provisions of this Agreement shall be held to be invalid, illegal or unenforceable, such provisions shall be modified, or if not possible, severed, to reflect the fullest valid, legal, and enforceable expression of the intent of the parties and the remainder of this Agreement shall not be affected thereby.

26. Links. The Adviser Research Centre Web Site may contain information, products, and services provided by third parties and links (including advertisements) to third party web sites. This information and these products, services, and links are provided only as a convenience to Authorised Users. Morningstar does not review or control this information or these products, services, or other web sites, and Morningstar does not make any representations or warranties, express or implied, regarding this information or these products, services, or web sites. Inclusion of any of the foregoing in the Product does not constitute or imply an endorsement, authorization, sponsorship, or affiliation by or with Morningstar with respect to any third party or its web site or content, or any information, products, or services provided by that third party.