

## WEBSITE TERMS AND CONDITIONS OF USE

### 1. About the Website

1.1. Welcome to [www.ManningAM.com](http://www.ManningAM.com) (the '**Website**') (the '**Services**').

1.2. The Website is operated by Manning Asset Management Pty Ltd (ACN 608 352 576, AFSL 509561). Access to and use of the Website, or any of its associated Services, is provided by Manning Asset Management. Please read these terms and conditions (the '**Terms**') carefully. By using, browsing and/or reading the Website, this signifies that you have read, understood and agree to be bound by the Terms. If you do not agree with the Terms, you must cease usage of the Website, or any of its Services, immediately.

1.3. Manning Asset Management reserves the right to review and change any of the Terms by updating this page at its sole discretion. When Manning Asset Management updates the Terms, it will use reasonable endeavours to provide you with notice of updates to the Terms. Any changes to the Terms take immediate effect from the date of their publication. Before you continue, we recommend you keep a copy of the Terms for your records.

### 2. Acceptance of the Terms

You accept the Terms by remaining on the Website. You may also accept the Terms by clicking to accept or agree to the Terms where this option is made available to you by Manning Asset Management in the user interface.

### 3. Copyright and Intellectual Property

3.1. The Website, the content and all of the related products of Manning Asset Management are subject to copyright. The material on the Website is protected by copyright under the laws of Australia and through international treaties. Unless otherwise indicated, all rights (including copyright) in the content and compilation of the Website (including but not limited to text, graphics, logos, button icons, video images, audio clips, Website, code, scripts, design elements and interactive features) or the content are owned or controlled for these purposes, and are reserved by Manning Asset Management or its contributors.

3.2. All trademarks, service marks and trade names are owned, registered and/or licensed by Manning Asset Management, who grants to you a worldwide, nonexclusive, royalty-free, revocable license to:

(a) use the Website pursuant to the Terms;

(b) copy and store the Website and the material contained in the Website in your device's cache memory; and

(c) print pages from the Website for your own personal and non-commercial use. Manning Asset Management does not grant you any other rights whatsoever in relation to the Website or the content. All other rights are expressly reserved by Manning Asset Management.

3.3. Manning Asset Management retains all rights, title and interest in and to the Website and all related content. Nothing you do on or in relation to the Website will transfer any:

(a) business name, trading name, domain name, trade mark, industrial design, patent, registered design or copyright, or

(b) a right to use or exploit a business name, trading name, domain name, trade mark or industrial design, or

(c) a thing, system or process that is the subject of a patent, registered design or copyright (or an adaptation or modification of such a thing, system or process), to you.

3.4. You may not, without the prior written permission of Manning Asset Management and the permission of any other relevant rights owners: broadcast, republish, upload to a third party, transmit, post, distribute, show or play in public, adapt or change in any way the content or third party content for any purpose, unless otherwise provided by these Terms. This prohibition does not extend to materials on the Website which are freely available for re-use or are in the public domain.

#### **4. Privacy**

Manning Asset Management takes your privacy seriously and any information provided through your use of the Website and/or content are subject to Manning Asset Management's Privacy Policy, which is available on the Website.

#### **5. General Disclaimer**

5.1. Nothing in the Terms limits or excludes any guarantees, warranties, representations or conditions implied or imposed by law, including the Australian Consumer Law (or any liability under them) which by law may not be limited or excluded.

5.2. Subject to this clause 5, and to the extent permitted by law:

(a) all terms, guarantees, warranties, representations or conditions which are not expressly stated in the Terms are excluded; and

(b) Manning Asset Management will not be liable for any special, indirect or consequential loss or damage (unless such loss or damage is reasonably foreseeable resulting from our failure to meet an applicable Consumer Guarantee), loss of profit or opportunity, or damage to goodwill arising out of or in connection with the content or these Terms (including as a result of not being able to use the content or the late supply of the content), whether at common law, under contract, tort (including negligence), in equity, pursuant to statute or otherwise.

5.3. Use of the Website and the content is at your own risk. Everything on the Website and the content is provided to you "as is" and "as available" without warranty or condition of any kind. None of the affiliates, directors, officers, employees, agents, contributors and licensors of Manning Asset Management make any express or implied representation or warranty about the content or any products or content (including the products or content of Manning Asset Management) referred to on the Website. This includes (but is not restricted to) loss or damage you might suffer as a result of any of the following:

- (a) failure of performance, error, omission, interruption, deletion, defect, failure to correct defects, delay in operation or transmission, computer virus or other harmful component, loss of data, communication line failure, unlawful third party conduct, or theft, destruction, alteration or unauthorised access to records;
- (b) the accuracy, suitability or currency of any information on the Website, the content, or any of its content related products (including third party material and advertisements on the Website);
- (c) costs incurred as a result of you using the Website, the content or any of the products of Manning Asset Management; and
- (d) the content or operation in respect to links which are provided for your convenience.

5.4 All information provided on the Website is, unless otherwise indicated, factual information and does not involve any recommendation or statement of opinion by Manning Asset Management or any third party. Such information does not take into account your objectives, financial situation or needs and you should consider obtaining professional financial advice before making any investment decisions.

### 5.5 Prohibited Uses

In using the Website, you must not engage or attempt to engage in any activities that:

- (a) violate any Relevant Laws;
- (b) result in the placement, posting, uploading of, linking to, sending, storing or otherwise communicating or distributing in any way content that is (or is likely to be considered) inappropriate, defamatory, abusive, profane, infringing, obscene, indecent, obscene, or unlawful material or information;
- (c) violate the rights of any third party (including, without limitation abusing, stalking, threatening or otherwise, infringement of copyright, trademark, or other intellectual property right, misappropriation of trade secrets, Confidential Information, electronic fraud, invasion of privacy, pornography, obscenity or libel);
- (d) interfere with or disrupt any other third parties (including other users of the Website);
- (e) introduce or allow the introduction, transmission, distribution or uploading of any, virus or other potentially harmful programs, materials, information or malicious code into the Website;
- (f) use any device or process to retrieve, index, "data mine" or in any way reproduce or circumvent the navigational structure or presentation of the Website;
- (g) involve distribution of unsolicited advertising or chain letters, repeated harassment of other users or third parties, impersonating another user, falsifying a users' network identity for improper or illegal purposes, gaining unauthorised access to any parts of the Website sending unsolicited bulk emails or calls, continuing to send someone emails after being asked to stop and using a network to gain unauthorised entry to any other machine accessible via a network;
- (h) involve the unauthorised use of any machine or network, denial of service attacks, falsification of header information or user identification information, monitoring or scanning the networks of others;
- (i) gain unauthorised access to the Website;
- (j) disrupt, impair, alter or otherwise interfere with the functions, features, content of the Website;
- (k) restrict or inhibit any other visitor from using the Website including, without limitation, by means of "hacking" or defacing a portion of this Website;
- (l) express or imply that statements you make are endorsed by Manning Asset Management, without Manning Asset Management's prior written consent;

- (m) modify, adapt, decompile, reverse engineer, disassemble or otherwise reduce the Website to a human-perceivable form;
- (n) remove any copyright, trademark or other proprietary rights notices contained in the Website;
- (o) harvest or collect information about this Website's visitors or members without their express consent;
- (p) are commercial, including selling, modifying, displaying, distributing or otherwise using any content, in whole or in part, for any public or commercial purpose without Manning Asset Management's prior written consent, marketing, advertising or promoting goods or services, collecting and using any product lists or pricing for the benefit of other merchants, or re-selling, sublicensing or translating the Website;
- (q) use any meta-tags or any other "hidden text" utilising Manning Asset Management's name or content without Manning Asset Management's express written permission; or
- (r) frame the Website, or utilise framing techniques on any part of the Website, without Manning Asset Management's express written permission.

## **6. Limitation of liability**

6.1. Manning Asset Management's total liability arising out of or in connection with the content or these Terms, however arising, including under contract, tort (including negligence), in equity, under statute or otherwise, will not exceed the resupply of the content to you.

6.2. You expressly understand and agree that Manning Asset Management, its affiliates, employees, agents, contributors and licensors shall not be liable to you for any direct, indirect, incidental, special consequential or exemplary damages which may be incurred by you, however caused and under any theory of liability. This shall include, but is not limited to, any loss of profit (whether incurred directly or indirectly), any loss of goodwill or business reputation and any other intangible loss.

6.3. You acknowledge and agree that Manning Asset Management holds no liability for any direct, indirect, incidental, special consequential or exemplary damages which may be incurred by you as a result of visiting or providing any information to the Website.

## **7. Indemnity**

7.1. You agree to indemnify Manning Asset Management, its affiliates, employees, agents, contributors, third party content providers and licensors from and against:

- (a) all actions, suits, claims, demands, liabilities, costs, expenses, loss and damage (including legal fees on a full indemnity basis) incurred, suffered or arising out of or in connection with any Website content;
- (b) any direct or indirect consequences of you accessing, using or transacting on the Website or attempts to do so; and/or
- (c) any breach of the Terms.

## **8. Dispute Resolution**

### **8.1. Compulsory:**

If a dispute arises out of or relates to the Terms, either party may not commence any Tribunal or Court proceedings in relation to the dispute, unless the following clauses have been complied with (except where urgent interlocutory relief is sort).

#### **8.2. Notice:**

A party to the Terms claiming a dispute ('Dispute') has arisen under the Terms, must give written notice to the other party detailing the nature of the dispute, the desired outcome and the action required to settle the Dispute.

#### **8.3. Resolution:**

On receipt of that notice ('**Notice**') by that other party, the parties to the Terms ('**Parties**') must:

- (a) Within 14 days of the Notice endeavour in good faith to resolve the Dispute expeditiously by negotiation or such other means upon which they may mutually agree;
- (b) If for any reason whatsoever, 14 days after the date of the Notice, the Dispute has not been resolved, the Parties must either agree upon selection of a mediator or request that an appropriate mediator be appointed by the President of the a mutually agreed body or his or her nominee;
- (c) The Parties are equally liable for the fees and reasonable expenses of a mediator and the cost of the venue of the mediation and without limiting the foregoing undertake to pay any amounts requested by the mediator as a pre-condition to the mediation commencing. The Parties must each pay their own costs associated with the mediation;
- (d) The mediation will be held in New South Wales, Australia.

#### **8.4. Confidential**

All communications concerning negotiations made by the Parties arising out of and in connection with this dispute resolution clause are confidential and to the extent possible, must be treated as "without prejudice" negotiations for the purpose of applicable laws of evidence.

#### **8.5. Termination of Mediation:**

If 3 months have elapsed after the start of a mediation of the Dispute and the Dispute has not been resolved, either Party may ask the mediator to terminate the mediation and the mediator must do so.

### **9. Venue and Jurisdiction**

The Services offered by Manning Asset Management is intended to be viewed by residents of Australia. In the event of any dispute arising out of or in relation to the Website, you agree that the exclusive venue for resolving any dispute shall be in the courts of New South Wales, Australia.

### **10. Governing Law**

The Terms are governed by the laws of New South Wales, Australia. Any dispute, controversy, proceeding or claim of whatever nature arising out of or in any way relating to the Terms and the rights created hereby shall be governed, interpreted and construed by, under and pursuant to the laws of New South Wales, Australia, without reference to conflict of law principles, notwithstanding

mandatory rules. The validity of this governing law clause is not contested. The Terms shall be binding to the benefit of the parties hereto and their successors and assigns.

#### **11. Independent Legal Advice**

Both parties confirm and declare that the provisions of the Terms are fair and reasonable and both parties having taken the opportunity to obtain independent legal advice and declare the Terms are not against public policy on the grounds of inequality or bargaining power or general grounds of restraint of trade.

#### **12. Severance**

If any part of these Terms is found to be void or unenforceable by a Court of competent jurisdiction, that part shall be severed and the rest of the Terms shall remain in force.