

accountantsGPS SMSF PLATFORM & moneyGPS PLATFORM SUBSCRIBER CLIENT LICENCE TERMS

1. How these Terms apply

- 1.1** Fiduciary Financial Services Pty Limited (ABN 76 003 624 888 and Australian Financial Services License (AFSL) 243744) (**Fiduciary** or **we**) of Level 6, 607 Bourke Street, Melbourne Vic 3000, trading as **accountantsGPS** and **moneyGPS**, is the provider of the **Services** covered by these Terms, comprising our accountantsGPS Self-managed Superannuation Fund Platform (**SMSF Platform**) and **moneyGPS Platform** for financial advice, both available through our website, and associated services (which may be provided through associated entities and/or trading names).
- 1.2** These Terms apply to **You** as our **Subscriber Client** (the person or entity named in the online form or otherwise holding an account with us), and to Your Personnel, Customers and any other person accessing our Services with Your authorisation. A Subscriber Client may be (for example) an accounting firm or partnership, Australian Credit Licence holder, an AFSL holder, an employer, an association, or an authorized entity or partner of any of them. You may accept these Terms by confirming Your acceptance of them online, submitting an application, opening an account, or otherwise commencing to use the SMSF Platform or moneyGPS Platform.
- 1.3** The Services we provide to You and to Customers are provided exclusively by Fiduciary under Fiduciary's AFSL and are not provided by You or by any other entity or person. Nothing in these Terms is intended to constitute or create a relationship of principal and agent between Fiduciary and You.
- 1.4** You agree as our Subscriber Client that You do not and cannot in any way select, modify, or otherwise exercise control over the Services supplied by Fiduciary in accordance with these Terms, and that the Services are within the exclusive control of Fiduciary as the provider of those Services.
- 1.5** You agree, as our Subscriber Client, to ensure that neither You nor any of Your Personnel will make any disclosure or engage in any conduct that may give a Customer, or any other person accessing our Services through You or a website or platform operated or controlled by You, the impression that the Services are provided by any entity or person other than Fiduciary.
- 1.6** We may update and re-issue these Terms at any time, with effect from that date or a later date specified. If You do not accept the Terms as updated, You should not use the Services. You may cease using our Services at any time, but a time commitment or notice period may apply under Your chosen Subscription Plan. Additional terms such as our Privacy Policy and payment platform terms may be shown on the website or notified to You and Customers in the course of using our Services.
- 1.7** Where You or a Customer acquire services from Fiduciary, other than the SMSF Platform or moneyGPS Platform, such as personal digital advice, those services may be governed by separate terms on our website or otherwise provided to You or Customer. If no such other terms are applicable, these Terms apply to the other services with the necessary changes. You may in some cases act on behalf of Your Customer in engaging Fiduciary for such services, in which event You accept Fiduciary's terms on behalf of both You and Customer.
- 1.8** Where You or a Customer acquire services from a third-party service provider accessed through or referred via the SMSF Platform, Fiduciary makes no guarantees or representations about the availability, pricing, compliance, or quality of the services. Commission fees may be payable in some circumstances by Fiduciary to the Subscriber Client as a percentage of any referral fees earned by Fiduciary as a result of such referrals.

2. Licence for the SMSF Platform

- 2.1** Fiduciary grants You a limited, non-exclusive, revocable, and personal Licence for You and Your Personnel to access and use the SMSF Platform and moneyGPS Platform on behalf of Your Customers, subject to compliance with these Terms (**Licence**). Other than that Licence, You and Customers obtain no interest or rights in the SMSF Platform or moneyGPS Platform.
- 2.2** Fiduciary warrants that it has the necessary rights to grant the Licence, which may include third party software and content. The use of third-party software and content may be subject to separate terms as

notified to You by Fiduciary or the third-party provider, in which case compliance with such terms is also a condition of this Licence.

- 2.3** Fiduciary will exercise reasonable care when providing the Services and take measures to not damage, lose or destroy User Data or any software, hardware, or applications in use by You. Fiduciary has in place a comprehensive regime of cybersecurity protocols & systems, for all our associated entities and financial services. Furthermore, Fiduciary has requested each of our referral partners to confirm their own cybersecurity arrangements, which forms part of our internal due diligence process when selecting any referral partner.
- 2.4** You acknowledge that to provide You with access to certain Services, Fiduciary relies on complete and accurate inputs being provided by You to your linked Administration Software Provider, and as further stipulated by platform settings and processes for sign up, log in, user profile, links, and account management tools.. Any delays, errors, or omissions by You may affect our ability to provide the Services to You and the Customers.
- 2.5** Fiduciary may at any time suspend, limit, impose conditions on or terminate a Subscriber Client's account or access to our Services for reasons including:
 - 2.5.1 Breach or suspected breach of these Terms or a Fiduciary policy (noting that Fiduciary may give You an opportunity to remedy a breach that is capable of remedy);
 - 2.5.2 Considerations of privacy, cyber-security, system integrity, performance, or capacity;
 - 2.5.3 Any events or circumstances indicating that You are or may be insolvent;
 - 2.5.4 Any actions (whether or not relating to the Services) that in Fiduciary's opinion are detrimental to the brand, image, goodwill, or reputation of Fiduciary, or other clients or Customers; or
 - 2.5.5 As the outcome of a dispute raised by any party or pending resolution of a dispute process.

3. Subscriber Client Obligations

The Subscriber Client and its Customers and Personnel must:

- 3.1** Provide their own internal facilities (including software, computers, and telecommunications facilities) necessary to access and use our Services;
- 3.2** Maintain the confidentiality of any login names and passwords allocated to them;
- 3.3** Only use the Services and allow them to be used in accordance with these Terms, for lawful purposes and in compliance with applicable laws;
- 3.4** Not engage with any other software provider which offers substantially similar software or services (including, but not limited to, access to any platform for digital advice) as the SMSF Platform or moneyGPS Platform, nor offer or introduce such other software to Customers;
- 3.5** Not:
 - 3.5.1 Resell, reproduce, commercialise, rent, or make available the SMSF Platform or moneyGPS Platform to any third party other than strictly in accordance with these Terms;
 - 3.5.2 Engage in any criminal, unprofessional, unethical, or offensive conduct which could damage the reputation of Fiduciary;
 - 3.5.3 Make available to any third party any analysis of the results of the SMSF Platform or moneyGPS Platform, including benchmarking results;
 - 3.5.4 Alter, remove, or obliterate any proprietary notice of the SMSF Platform or moneyGPS Platform; or
 - 3.5.5 Modify, alter, customize, or create derivative works of the SMSF Platform or moneyGPS Platform.

4. Our Rights and Obligations

- 4.1** The moneyGPS and SMSF Platforms are offered and operated by Fiduciary Financial Services Pty Ltd, AFSL no. 243744. Accordingly, we are responsible for all advice and services delivered to Customers through the moneyGPS and SMSF Platforms. You are not responsible for the advice and services delivered to Customers through the moneyGPS and SMSF Platforms.
- 4.2** Both platforms will provide financial services to You and/or Your Customers, depending on the subscription plan selected.
- 4.3** Pursuant to the terms of our Privacy Policy, Fiduciary may send communications to You and Your Customers for educational and marketing purposes.
- 4.4** You will continue to own the Customer relationship. Fiduciary will not own or maintain the Customer relationship.
- 4.5** Fiduciary undertakes that it will not refer Your Customers to any competing professional services firms unless expressly directed or permitted by You.
- 4.6** For Subscriber Clients that hold their own AFSL, if one of Your Customers requests or requires comprehensive financial advice, we will refer that Customer directly to Your office.
- 4.7** If, at any stage, your relationship with Fiduciary is terminated, we will destroy all of Your Customers' User Data, or return it to You.

5. User Data

- 5.1** The Subscriber Client:
 - 5.1.1** Warrants that the use of User Data by You, and by Fiduciary in accordance with these Terms, shall not infringe the rights of any person, including privacy or Intellectual Property Rights;
 - 5.1.2** Is responsible for making the necessary disclosures and obtaining the necessary consents from Personnel and Customers to allow for the collection, storage, use, disclosure and transfer of User Data and personal information when accessing the Services or pre-registering any Customers to use the Services, in accordance and compliance with the Privacy Laws This may require You to review and update Your privacy policy and/or privacy collection statement;
 - 5.1.3** Must endeavour to ensure that the User Data uploaded to the SMSF Platform or moneyGPS Platform does not contain any viruses or harmful material, programming routines or codes; and
 - 5.1.4** Must cooperate with us and comply with any reasonable request from us to help resolve any complaint relating to the Privacy Laws pertaining to the use of our Services through the Subscriber Client's website, platform or otherwise
- 5.2** Fiduciary acknowledges that, as between us and You, You retain ownership of the User Data. When You provide User Data to us, You grant a royalty free, perpetual, global licence to Fiduciary to use, edit, adapt, modify, copy, and otherwise deal with User Data strictly in the course of providing Services, and subject to clause 5.3 and applicable laws.
- 5.3** We may offer a marketing program to support the sale of Services and take-up by Customers. A program may include direct or indirect marketing to Customers, either by You or by a marketing agency engaged by Fiduciary. Where we engage an agency, we commit to establishing and complying with data controls such that if You provide Customer contact details to the agency, we cannot access or receive that information without Your consent. A marketing program may set out more detailed terms and commitments by us, which are enforceable as obligations under this agreement.

6. Availability

- 6.1** We will use reasonable endeavours to ensure that the SMSF Platform and moneyGPS Platform are available 24 hours, 7 days a week in Australia, other than for scheduled downtime and maintenance. However, we do not guarantee that our Services will be provided on a continuous, fault free and fully functioning basis. We may from time to time offer service level assurances by agreement with You or by notification on our website.
- 6.2** To provide our Services, we use content and data that is provided by You to your Administration Software Provider and linked to the SMSF Platform via an Application Programming Interface (API) with the consent of your Administration Software Provider. You agree and consent (and confirm that Your Customers from time-to-time consent) to such content and data being shared, linked, and used for all purposes associated with our Services and legitimate business purposes, subject to applicable laws.

- 6.3** While we endeavour to provide an operating API and linkages with your Administration Software Provider, Fiduciary and your Administration Software Provider cannot guarantee the availability of the API or the services of the other, and neither of them is responsible for any issues associated with the services of the other.

7. Fees

- 7.1** The fees and revenue share arrangements (**Fees**) applying to the SMSF Platform, moneyGPS Platform and associated services are as set out in a Fee Schedule attached to these Terms or provided on our website.
- 7.2** We may amend the Fees from time to time by publishing updated Fees. Continuing use of our Services by You or the Customer after an update of Fees constitutes acceptance of the updated Fees.
- 7.3** Under our subscription plans, certain per-Customer services may be available as an option for individual Customers. For those Services, either Your Customer may take up the subscription plan option directly, or You may do so on behalf of, and with the authority of, Your Customer, and in either case these Terms and the relevant subscription plan fees and terms apply to both You and Your Customer.
- 7.4** Where Fees are paid by us to You in relation to a Customer, but subsequently any issue arises with You or the Customer that results in us repaying or not receiving revenue in relation to that Customer, you agree that we may recover all of part of those Fees from you.
- 7.5** We may without notice set off amounts owing by You to us against amounts owing by us to You and make deductions and adjustments to Fees accordingly.
- 7.6** You are responsible for obtaining Customer's agreement to purchase certain per-Customer Services from Fiduciary for the applicable Fees, payable by the Customer to Us. By submitting an application to purchase such a Service on behalf of a Customer, You confirm that that Customer has so agreed.
- 7.7** In addition to our Fees, third party fees may apply in the course of using and paying for our Services, as shown to You or the Customer (e.g. payment platform, credit card, currency conversion or transaction fees).
- 7.8** Where we receive revenue from Your Customers and then pay out commission-based Fees to You:
- 7.8.1** We will issue a monthly recipient created tax invoice to You, and make the payment to Your nominated bank account, unless otherwise arranged; and
- 7.8.2** The calculation of Fees by us relies on inputs such as Subscriber Client ID numbers and Customer details being accurate and up to date. We will endeavour to support You in resolving issues but is not liable where errors, omissions or delays in information being provided by You result in delayed, inaccurate, or missed Fee payments to You.

8. Intellectual Property Rights

During and after the term of this agreement:

- 8.1** You must not, and must ensure that Your Personnel do not, misuse, challenge, interfere with or otherwise impede the ownership and use of our Intellectual Property Rights in the SMSF Platform, moneyGPS Platform and the Services;
- 8.2** You must not, and You must ensure that Your Personnel do not, copy, amend, re-write, disaggregate, reverse engineer, data scrape, extract source code from, or disassemble any part of the SMSF Platform or moneyGPS Platform;
- 8.3** You must provide all documents, information and reasonable co-operation and access to us or our nominee regarding the use of our Services to ascertain compliance with these Terms;
- 8.4** You must ensure that in exercising Your rights of access to our Services, any associated software, data, equipment, or other materials You create or provide to Customers shall not infringe any Intellectual Property Rights or breach any laws; and
- 8.5** You must immediately notify us in writing of any actual, suspected, or anticipated infringement of the SMSF Platform, moneyGPS Platform or our Intellectual Property Rights, or breach of these Terms.

9. Indemnity and liability

- 9.1** Subject to these Terms, we indemnify You against any liability, direct loss, expense, damage or other cost (**Loss**) that You incur that is directly caused by our negligence, breach of law, or third-party claim resulting from the provision of the Services to Your Customers or resulting from the SMSF Platform or moneyGPS Platform's infringement of Intellectual Property Rights.
- 9.2** Subject to these Terms, You indemnify us against any Loss that we incur that is directly caused by Your or Your Personnel's negligence, breach of law, or a third-party claim that our use of the User Data or other information, materials and documents supplied by You or Your Customers or Personnel infringes the Intellectual Property Rights, or any other rights, of a third party.
- 9.3** You indemnify us against any Loss resulting from or in connection with any failure by You to comply with clause 5 of these Terms or the Privacy Laws relating to You or Your Customers' use of the Services.
- 9.4** The liability of the indemnifying party will be reduced proportionally to the extent that the indemnified party is responsible for the Loss.
- 9.5** Other than as specified in these Terms or an applicable law that cannot be excluded, we offer Our Services on an "as is" basis, and exclude liability for any Loss, failure, delay, or error in or associated with the Services.
- 9.6** To the extent permitted by law, if we are liable to You or Your Customer for breach of a statutory right, the liability is limited to the resupply of the Services, or the payment of the cost of supply.
- 9.7** Liability under these Terms, including the indemnities is limited to \$25,000, other than for breaches relating to non-payment of Fees, Intellectual Property Rights, Confidential Information, or an applicable law.

10. Termination

- 10.1** Either party may terminate this agreement immediately by written notice to the other party.
- 10.2** For Services that rely on your Administration Software Provider, we may terminate this agreement and remove Subscriber Client access to the SMSF Platform if You or a relevant Customer ceases to be a user of your Administration Software Provider for any reason.
- 10.3** On termination of this agreement:
- 10.3.1 We will continue providing our Services to individual Customers for the duration of any current subscription plan, but will otherwise immediately cease making our Services available to You and Your Customers;
 - 10.3.2 The Licence and any sub-licence are immediately revoked, other than to the extent necessary for provision of our Services under subscription plans;
 - 10.3.3 Each party will account to the other for any Fees which are owed to the other;
 - 10.3.4 We will cease paying commission to You but will continue our policy of not retaining commissions, such that we will instead pay any commissions we receive to charity; and
 - 10.3.5 Each party's accrued obligations, rights and remedies survive, as do clauses 8, 9 and 10, and other clauses to the extent they apply to continued provision of Services under this clause 10.3.

11. General

- 11.1** This agreement and the provisions it incorporates by reference contain everything the parties have agreed in relation to the matters it deals with. No party can rely on an earlier document or any other materials, or anything said or done by another party, except as permitted by law.
- 11.2** This agreement supersedes any previous written or oral negotiations or preliminary agreement between the parties, including any earlier Licence terms relating to the SMSF Platform or moneyGPS Platform, which are terminated from the date these Terms commence.

- 11.3** If a provision can be read in a way that makes it illegal, unenforceable, or invalid, but can also be read in a way that makes it legal, enforceable, and valid, it must be read in the latter way. If a provision is illegal, unenforceable, or invalid, that clause or part is to be treated as removed from this agreement, but other provisions are not affected.
- 11.4** This agreement is governed by the laws in effect in Victoria. The parties submit to the non-exclusive jurisdiction of its courts and courts of appeal from them.

12. Defined Terms

Administration Software Provider means BGL or Class Super, as the case may be.

AFSL means Australian Financial Services Licence.

BGL means BGL Corporate Services Pty Ltd (ABN 60 606 354 079).

Class Super means Class Pty Ltd (ABN 46 121 158 503).

Confidential Information means information in oral, written or electronic form belonging or relating to a party, its organisation, business affairs, finances, Subscriber Clients, users, suppliers, employees, or activities, which is marked as confidential, is provided using the SMSF Platform or moneyGPS Platform or otherwise in the course of our Services, or is by nature reasonably treated as confidential, other than information in the public domain through no fault of the recipient or lawfully received from a third party free from confidentiality.

Customer means a customer or end user of the Subscriber Client.

Fiduciary means Fiduciary Financial Services Pty Limited (ABN 76 003 624 888 and AFSL 243744). Each of **accountantsGPS** and **moneyGPS** is a trading name of Fiduciary and the terms may be used interchangeably in these Terms.

Intellectual Property Rights means any rights, know-how, process, source code, Confidential Information, patent, trademark (whether registered and whether within or outside Australia), copyright, design, and any corresponding property or right under the laws of Australia or another jurisdiction, including applications for and rights to apply for registration.

Licence means the limited, non-exclusive, revocable, and personal licence granted to the Subscriber Client by Fiduciary pursuant to clause 2.

moneyGPS Platform means the moneyGPS digital financial advice Platform and its associated applications, systems, networks and computer programs and their source code, functionality, and outputs, including any incorporated third-party software and services.

Personnel means, in relation to a party, that party's directors, officers, employees, agents and consultants.

Privacy Laws means the *Privacy Act 1988* (Cth) including the Australian Privacy Principles and the *Privacy Regulations 2013* (Cth), and any other privacy laws and such other data protection laws as may be in force from time to time which regulate the collection, storage, use and disclosure of information.

Services mean the services provided by Fiduciary to the Subscriber Client or Customers.

SMSF Platform means the accountantsGPS Digital SMSF Platform, and its associated applications, systems, networks and computer programs and their source code, functionality, and outputs, including any incorporated third-party software and services.

User Data means the data, records, financial information, personal information, and any other information about Customers held in the SMSF Platform or moneyGPS Platform, which is entered, uploaded, or otherwise shared with us by the Subscriber Client. User Data does not include such information shared with us directly by the Customer.