

# Morningstar Adviser Workstation - Trial Licensing Agreement

## Important – please read this carefully before use.

This is a Licence Agreement. The person making application for a log in and password to the Product represents and warrants that they have the authority to enter into this Licence Agreement with Morningstar on behalf of the Subscriber, that they have read the terms and conditions set out herein and that the Subscriber agrees to be bound by the terms and conditions. If the Subscriber does not agree to the terms and conditions the Subscriber must not use the password and log in provided by Morningstar and must destroy all record of both immediately and notify Morningstar. By using the password and log in provided by Morningstar you are legally bound by the conditions of this Licence Agreement.

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**Licensing Agreement between Morningstar & the Subscriber:**  
Morningstar Research Ltd  
Level 2, 29-33 Shortland Street  
PO Box 105170  
Auckland Central, New Zealand

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## 1 Definitions

### Authorised Person means

the user nominated on the Adviser Workstation registration form, and who is an employee, contractor, or consultant of the Subscriber.

### Authorised Use and Distribution means

in relation to the Product to conduct internal research and portfolio valuation, including producing reports in electronic and/or hardcopy format for the sole purpose of evaluating the Product for potential purchase by the Subscriber, provided the access to the Product is strictly limited to the Authorised Person.

### Authorised Site means

the business premises of the Subscriber from time to time.

### Product means

Morningstar's Adviser Workstation.

### Subscriber means

means the individual or entity that has subscribed for the Product under the terms and conditions of this agreement.

## 2. Grant of Licence

Subject to the terms of this agreement, Morningstar grants to the Subscriber, and the Subscriber accepts from Morningstar, a non-transferable, non-exclusive single user licence to use the Product.

## 3. No Warranty

Any person using the Product does so on the basis that Morningstar gives neither guarantee nor warranty nor makes any representations as to the correctness or completeness of the Product and that the information contained in the Product is based on information disclosed to Morningstar by other parties and on past performance of products and has not been independently verified by Morningstar and that, in any event past performance is no guarantee of future performance and no liability, contingent or otherwise is accepted by Morningstar for errors in the Product or omissions from the Product.

## 4. No Intention to Recommend Securities

The Subscriber acknowledges and agrees that the data/information contained in the Product does not constitute the provision of securities advice by Morningstar, and that to the extent that it is deemed "financial product advice" within the provisions of the *Securities Act 1978*, *Securities Amendment Act 1988* and any other Regulations, the Subscriber acknowledges that:

- (1) in preparing the "financial product advice", Morningstar did not take into account the particular goals and objectives, anticipated resources, current situation or attitudes of any particular person; and
- (2) before making any investment decisions on the basis of that "financial product advice", any investor or prospective investor needs to consider, with or without the assistance of an investment advisor, whether the advice is appropriate in the light of the particular goals and objectives, anticipated resources, current situation or attitudes of the investor or prospective investor.

## 5. "As is" Basis

The Product is provided on an "as is" basis without warranty, express or implied, of any kind or nature, including, but not limited to, any warranties of performance or merchantability or fitness for a particular purpose. Without limitation, Morningstar will not be liable to any person for any loss, damage, cost, expense or other claim (including consequential damages and loss of profits) in relation to the Product including, without limitation:

- (1) any use or reliance on a Product by the person (including the form and content of errors in and/or omissions from any information contained in a Product);
- (2) any delay, interruption or other failure in the provision of the Product; or
- (3) any change in the form or content of the Product.

## 6. Morningstar's Obligations

Morningstar will supply the Subscriber with the Product.

## 7. Subscriber Obligations

The Subscriber must at all times:

- (a) ensure that only the Authorised Person may use the Product and only for an Authorised Use and Distribution at the Authorised Site in accordance with the terms and conditions of this agreement;
- (b) immediately advise Morningstar in writing if the Subscriber becomes aware of any unauthorised use of the Product by any person;
- (c) ensure that the user log in and password provided by Morningstar are kept secure at all times and not released to any unauthorised person; and
- (d) with respect to any reports or other data/information extracted from the Product, in either electronic and/or hardcopy format, include an attribution to Morningstar, in a format approved in writing by Morningstar.

## 8. Unauthorised Use and Distribution

Where as a result of any act or omission by the Subscriber, a Product is supplied to or obtained by any person (other than the Authorised Person) without the prior written consent of Morningstar, Morningstar will immediately have the right (in addition to any other right or claim that Morningstar may have against the Subscriber) to retroactively charge the Subscriber \$2,250, multiplied by the number of persons to whom the Product has been wrongfully supplied or obtained (whether for gain or sale or otherwise).

## 9. Investigation of Unauthorised Use and Distribution

Where, after due investigation, Morningstar reasonably suspects that a Product has been supplied to or obtained by any person (other than the Authorised Person) without Morningstar's prior written consent, Morningstar has the right to request from the Subscriber an unqualified certificate executed by the Subscriber's auditor at the Subscriber's cost for the purpose of calculating the total number and type of users and/or end-users of the Product so that Morningstar may ascertain whether it may exercise its rights under clause 9.

#### **10. Subscriber's Restrictions**

During the term of this agreement, the Subscriber must not without the prior written consent of Morningstar (which may be withheld and which may include certain conditions):

- (a) create derivative works from the Product;
- (b) alter, decompile, reverse engineer or disassemble the Product;
- (c) sell, redistribute, reproduce, transmit, circulate, disseminate, translate or reduce to or from any electronic medium or machine readable form the Product or any data/information provided to the Subscriber through the Product to a person (except that nothing in this paragraph (c) is intended to prevent the Authorised Person undertaking an Authorised Use and Distribution at the Authorised Site);
- (d) vary or amend the Authorised Use and Distribution without Morningstar's prior written approval;
- (e) publish, promote, broadcast, circulate or refer publicly to the Morningstar name or logo;
- (f) commit any act or omission the likely result of which is that Morningstar's reputation will be brought into disrepute or which act or omission could reasonably be expected to have or does have a material and adverse effect on Morningstar's interests.

#### **11. Term**

This agreement commences on the date that Morningstar delivers the user log in and password for the Product to the Subscriber ("the Commencement Date") and will continue in full force and effect for a period of 15 days from the Commencement Date.

#### **12. Expiry of the Term**

Upon expiry of the term of this agreement as contemplated in clause 11, Morningstar will immediately cancel the Subscriber's access to the Product.

#### **13. Limitation of Liability**

Where any law implies in this agreement any term, condition or warranty and that law avoids or prohibits a provision of this agreement excluding or modifying the application of or liability under any term, condition or warranty then the liability of Morningstar is limited to the re-supply of the Product for 14 days.

#### **14. Intellectual Property**

The Subscriber acknowledges that the Product and all intellectual property rights in relation to the Product are the property of Morningstar and Morningstar is entitled to take whatever action it may decide in order to protect its intellectual property rights in the Product.

#### **15. No Assignment or Amendment**

This agreement may not be assigned or amended without the prior written consent of the parties.

#### **16. Governing Law**

This agreement is governed by the laws of New Zealand and the parties irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts of New Zealand.