

Terms and Conditions

(Last updated 12 September 2016)

The Purpose of this Document

This document outlines the terms of use that govern your use of the Website and the Services, whether as an Investor, Project Developer or otherwise. These Terms and Conditions of Use constitute a bilateral agreement (Agreement) between you and Vestabyte Pty Ltd ACN 612 771 490 (Vestabyte or we or us).

Please read this Agreement carefully. By using the Website or the Services, you agree to be bound by this Agreement and the Policies, including the Privacy Policy. Section 16 contains the definitions of certain terms used in this Agreement. We may change or amend the Agreement from time to time. If we amend or change the Agreement, you will be notified the next time you visit the Website and asked to confirm that you agree to the amended terms. If you do not agree to our amendment(s), you must immediately stop using the Website and the Services.

1. How the Website and Services work

1.1 The Website and Services together constitute a marketing, publishing and technology service.

1.2 The Website and Services present opportunities to invest in real estate, which may be promoted on the back of a product disclosure statement, information memorandum or other applicable disclosure document. As well as investors, the Website and Services may be used by Project Developers seeking to raise funds for real estate projects on the back of a product disclosure statement, information memorandum or other applicable disclosure document.

1.3 If you are an Australian Financial Service License (AFSL) holding financial services provider looking to promote specific real estate based offers with full product disclosure statements open to the retail market we can also provide you with technology services to onboard and service new clients.

2. How Transactions work

Investment opportunities can be presented to Vestabyte by Project Developers or other

promoters associated with projects (herein, Promoters) who are registered with the Vestabyte site. These submissions are then reviewed by Vestabyte administrators before publishing and being made available to all Vestabyte website users. Any opportunity listed on Vestabyte comes either with a full product disclosure statement, an Information Memorandum and/or other applicable disclosure documents.

If you are interested in a particular listing you are directed to the investment opportunity's independent site, where you can elect to be guided through the process of making an investment offer.

The data you as a potential investor provide on this subdomain is stored separately and accessed only by the specific Promoter as permitted by you.

Any transactions or engagements you have on these subdomains are an independent transaction between you and the Promoter associated with the offer.

Vestabyte will provide reporting services by presenting the data and aggregations associated with various transactions entered on investor's dashboards but is not party to any transactions you undertake on the subdomains of Promoters.

Vestabyte will seek separate permissions from the investors, to collect and present this data from the various Promoters to the investors Vestabyte user account.

3. Subscription (general)

To subscribe on the Website you must follow the steps in section 10.

This will allow you to:

- (a) gain full access to Website content and pages, including Project detail pages;
- (b) gain full access to, and fully use, the Services;

You agree that we may send you administrative and/or promotional emails regarding your subscription, the Website, the Services and Transactions if you have subscribed or have otherwise provided your email address to us.

Once you have subscribed on the Website, we will send a confirmation email to your nominated email address to confirm the details of your account.

If you do not wish to receive further emails from us, you can send a request to info@vestabyte.com or click the 'unsubscribe from email list' link at the bottom of our emails to you. Unsubscribing from our email list does not cancel your subscription.

Vestabyte is not liable for any loss suffered as a result of you not receiving our emails, including as a result of you not providing us with a complete, accurate or correct email address, or as a result of your firewall or filter settings.

4. Fees

Vestabyte fees for every project are fully disclosed in the applicable offer document. Depending on the project we may have a large active role or may be limited only to fundraising. Please refer to the applicable offer document.

5. Suspension or termination

5.1 We may in our sole discretion at any time and without notice:

- (a) Suspend a Service or the Website;
- (b) cancel, reject, or suspend a listing;
- (c) take down or block access to a listing details page; and
- (d) remove, edit, or modify any content appearing on the Website, in the following cases:
 - (i) you breach or do not comply with this Agreement;
 - (ii) we suspect on reasonable grounds that you have breached or might or will breach any term of this Agreement;
 - (iii) in cases where Vestabyte suspects fraud or error;
 - (iv) in cases where Vestabyte suspects that there has been misuse of the Website or the Services or use of the Website or the Services to conduct any illegal activity;
 - (v) we are required to do so by law or by order of ASIC or any other regulatory body;or
- (vi) for any other reason (whether or not it relates to you or your conduct).

5.2 We may in our sole discretion permanently or temporarily prevent or terminate your use of the Website or Services, or terminate this Agreement with you.

5.3 You may terminate this Agreement at any time by emailing us at info@vestabyte.com and requesting termination.

5.4 If this Agreement is terminated for any reason, the termination will not affect any rights or obligations which accrued to any party before the time of termination, including:

(a) the obligation to pay, and our right to be paid any fees agreed upon

5.5 Vestabyte's rights as set out in this section 6 do not prejudice any other right or remedy Vestabyte may have in respect of any breach or any rights, obligations or liabilities which accrue prior to termination of this Agreement.

6. Intellectual property

6.1 All Intellectual Property Rights in

(a) the Website, including the Vestabyte logo, all Website design, text, graphics, software, photos, music, sounds, underlying source code and software; and

(b) the Services or any part of them,

are owned by Vestabyte or licensed to Vestabyte and you must not, and must not attempt to, obtain or register ownership or title to any such Intellectual Property Rights. Nothing in this Agreement or on the Website constitutes a transfer or licence of any such Intellectual Property Rights to you.

6.2 We do not have any ownership rights over Content that you submit to us for inclusion on the Website.

6.3 By submitting Content to us for inclusion on the Website, you represent and warrant to us that such Content does not infringe any third-party Intellectual Property Rights and that you are legally entitled to grant the Licence to us.

6.4 The Licence survives the termination of this Agreement.

7. Representations, guarantees and our liability

Website and Services

7.1 By using the Website or any of the Services, you represent and warrant that:

(a) you are 18 years of age or over and that you are legally capable of entering into this

Agreement with Vestabyte;

(b) your use of the Website or any of the Services complies with all applicable local, state and federal laws, rules and regulations as well as any treaties which apply to your use of the Website or Services; and

(c) any information you provide to us is true, accurate and correct, and not misleading or deceptive in any way.

7.2 Vestabyte does not represent, and nothing on the Website is to be construed as Vestabyte representing to you, that the Website and/or Services are available to or suitable for use by any person outside Australia. If you access or use the Website and/or Services from a place outside Australia, you do so at your own risk and you are solely responsible for ensuring compliance with all applicable laws of that place and for all the consequences of such access or use.

Content

7.3 Any Content:

(a) on the Website pertaining to Project listings, including the information contained in and featured on Profile Pages; or

(b) that is downloadable by you from Profile Pages, from any subdomains on Vestabyte controlled by Promoters or other third parties and Vestabyte makes no representation, guarantee or warranty that such Content is accurate or correct. It is your responsibility to verify any such Content.

7.4 Vestabyte does not endorse or assume responsibility for the Content contained in a projects listing or in any Offer document given to an Investor by a Promoter. You acknowledge and agree that neither Vestabyte nor any other person who uses, or is associated with, the Website or Services has been endorsed or approved by ASIC. The advice provided on the Vestabyte website is general advice only and has been prepared without taking into account your objectives, financial situation and needs.

7.5 We are not responsible for any errors or omissions in Content you submit to us.

Projects and Transactions

7.6 Vestabyte does not guarantee or make any representations or warranties concerning the use of any funds received by a Promoter. It is up to Investors to conduct the due diligence

they regard as necessary before investing in a Project or participating in a Transaction. Vestabyte is under no obligation to become involved in any disputes or proceedings of any nature which may arise between a Promoter and Investor that are connected via the listings on Vestabyte site.

7.7 As an Investor or a Promoter, you agree that Vestabyte is not under any circumstances liable or responsible for:

- (a) any Project not attaining its objectives
- (b) the failure of a Promoter to comply with any applicable law in relation to a Project, Profile Page, Offer or Transaction; or
- (c) the failure of a Promoter to carry out or complete a Project, or to carry out a Project as stated or within any time periods specified by the Offer Document, and therefore, in such cases, your sole and exclusive remedy for any and all claims and courses of action of any kind relating to or arising out of a Project or Transaction is against the Promoter i.e. as independent from Vestabyte.

General

7.8 To the fullest extent permitted by law:

- (a) Vestabyte does not warrant that the Website or Services will be uninterrupted, error-free, secure or free from interception or that the servers hosting the Website and facilitating the Services will be free from any virus or other harmful elements, and Vestabyte is not liable to you in relation to any interruptions or omissions in connectivity or internet services relating to the Website or Services;
- (b) Vestabyte excludes all representations, warranties, terms and conditions, whether express or implied (including those implied by statute, custom, law or otherwise) except as expressly set out in this Agreement;
- (c) Vestabyte excludes all liability for any damages or loss suffered by you (including loss of profits, loss of revenue, economic loss, loss of data, direct loss, indirect loss, or consequential or incidental loss) however caused (including damage or loss arising in contract, tort (including negligence), statute or otherwise) in connection with:
 - (i) your use of or reliance on the Website, the Services and/or its/their continued availability;
 - (ii) any exercise of Vestabyte's rights
 - (iii) the failure of a project listed or an Investor who connects with a Promoter to meet its obligations under this Agreement or under the agreement which results from an Investor accepting an Offer; and

(iv) your participation in any Transaction or in any negotiations or discussions relating thereto.

(d) your use of the Website (including all Content on or obtained from the Website) and/or the Services is at your sole risk.

7.9 Vestabyte does not exclude or restrict any liability:

(a) to the extent that this is not permitted under the *Competition and Consumer Act 2010* (Cth); or

(b) for breach of the consumer guarantees in the Australian Consumer Law (if those guarantees apply to any goods or services we provide to you).

8. Indemnity

You agree to indemnify Vestabyte, its related bodies corporate (as defined in the Corporations Act), and their officers, directors, employees, contractors and agents from and against any and all claims, causes of action, damages, obligations, losses (including loss of profits, loss of revenue, economic loss, loss of data, direct loss, indirect loss, or consequential or incidental loss, and including damage or loss arising in contract, tort (including negligence), statute or otherwise), liabilities, costs, debts and expenses (including legal fees and costs) arising from or as a result of or relating to your use of the Website or any of the Services (whether as an Investor, Project Developer, or otherwise), including a breach of this Agreement or any of the representations, warranties or promises you give in this Agreement, or any violation of applicable law or court order.

9. Privacy

Your privacy is important to us. We hold your personal information in accordance with our Privacy Policy, the terms of which form part of this Agreement. By using the Website and/or any of the Services, you agree to the use and collection of your personal information in accordance with the Privacy Policy.

10. Subscribing

10.1 To subscribe you must provide us with the following information during the subscription process:

(a) your full name (required);

(b) your email (required)

(c) your phone number

(d) whether you are a:

(i) Investor or

(ii) Project Developer

10.2 If you describe yourself as an Investor you agree that offers will be made in or accompanied by a copy of the disclosure document, and Anyone wishing to buy securities will need to complete the application form in the disclosure document.
or you will contact the project developer directly to discuss any investment offers.

10.3 All offers will be made by a Promoter associated with the offer and will have a full disclosure associated with it

10.4 Vestabyte reserves the right, at any time and in its absolute discretion, to:

(a) ask you for any further information, materials, or documentation in relation to you or your subscription as Investor;

(b) refuse to grant you a subscription as an Investor.

10.5 Once we have approved your subscription as an Investor, you will be able to browse the Profile Pages of the Projects lists on the Website and access the information relating to Projects contained on those Profile Pages.

11. Participating in Transactions as an Investor

11.1 If you want to contribute funds to a particular Project, you must first express your interest in the Project by making a request from the Profile Page for that Project.

11.2 The Promoter responsible for the Project will be notified of your interest and contact details in order to allow them or the associated Fundraiser acting on behalf of the Promoter, to initiate discussions or negotiations with you in relation to the possibility of investing in the Project.

11.3 It is up to the Promoter/Fundraiser to decide whether it wishes to contact you. If the Promoter/Fundraiser does contact you, you are free to negotiate and discuss the terms of your possible investment between yourselves. Vestabyte is not involved in the discussions or negotiations between you and the Promoter/Fundraiser.

12. Investor acknowledgements

12.1. When you click on a link on Promoter/Fundraiser's Profile Page to download the product disclosure statement in relation to a Project from a Profile Page, you are acknowledging to us that you agree and acknowledge that:

- (a) you invest in a Project, accept an Offer or participate in a Transaction solely at your own risk;
- (b) the product developer is solely responsible for carrying out the Project; and
- (c) the Promoter/Fundraiser is solely responsible for complying with any obligations it has in relation to a Transaction.

13. Exclusivity of Services (Investors)

13.1 As an Investor, you agree that if you become aware of or introduced to a Promoter/Fundraiser or a Project through us or by using the Website or the Services:

- (a) you will not make any arrangements to invest in or subscribe for shares in that Promoter/Fundraiser, or contribute funds to that Promoter/Fundraiser or that Promoter/Fundraiser's Project, except through the services provided by the Promoter associated with that project on Vestabyte website.
- (b) any attempt by you to invest in a Promoter/Fundraiser or Project by means other than this will constitute a breach of this Agreement.

14. General matters

14.1 Relationship between us and you

This Agreement does not create a relationship of employment, trust, agency or partnership between Vestabyte and you.

14.2 Entire agreement

This Agreement, together with the Policies (including the Privacy Policy), constitutes the entire agreement between you and us in connection with its subject matter and supersedes all previous agreements or understandings between you and us in connection with its subject matter.

14.3 Severability

If the whole or any part of a provision of this Agreement is invalid or unenforceable in a jurisdiction it must, if possible, be read down for the purposes of that jurisdiction so as to be

valid and enforceable. If however, the whole or any part of a provision of this Agreement is not capable of being read down, it is severed to the extent of the invalidity or unenforceability without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of that provision in any other jurisdiction

14.4 Survival

Any provisions that are expressed to survive, or by their nature are intended to survive, termination or expiry of this Agreement, shall survive termination or expiry of this Agreement.

14.5 No waiver

Vestabyte does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise by us of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by us.

14.6 Event beyond our control

Vestabyte is not liable for any breach of its obligations under this Agreement where it is hindered or prevented from carrying out its obligations by any cause outside its reasonable control, including lightning, fire, flood, severe weather, strike, lock-out, labour dispute, act of God, war, riot, civil commotion, malicious damage, or failure of any telecommunications, satellite, computer or global positioning system.

14.7 No assignment

You may not assign or transfer or delegate or otherwise deal with any of your rights or obligations under this Agreement. Vestabyte has the right to assign, delegate or otherwise deal with all or any of its rights or obligations under this Agreement to any person.

14.8 Governing Law

This agreement will be governed by and construed in accordance with the law for the time being in force in Victoria, Australia and the parties, by entering into this agreement, are deemed to have submitted to the non-exclusive jurisdiction of the courts of that State.

15. Interpretation

In this Agreement, headings are for convenience only and do not affect interpretation, and unless otherwise stated:

- (a) the singular includes the plural and vice versa and a gender includes other genders;
- (b) other grammatical forms of a defined word or expression have a corresponding meaning;
- (c) a reference to a section or Part is to a section or Part of this Agreement;
- (d) a reference to this Agreement includes the Agreement as novated, altered, supplemented or replaced from time to time;
- (e) a reference to A\$, \$A, dollar or \$ is to Australian currency;
- (f) a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (g) a reference to a person includes a natural person, partnership, firm, body corporate, trust, joint venture, association, governmental or local authority or agency or other entity;
- (h) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (i) specifying anything in this Agreement after the words "includes", "including", "for example" or similar expressions does not limit what else is included in this Agreement.

16. Definitions

Capitalised terms not otherwise defined in this Agreement have the following meanings:

- (a) Agreement has the meaning given in section 1.1.
- (b) ASIC means the Australian Securities & Investments Commission.
- (c) Content means information, statements, representations, material, images, logos, photographs, graphical content, audio, file, data or any other content but does not include any Content that incorporates Intellectual Property Rights owned by Vestabyte.
- (d) Corporations Act means the *Corporations Act 2001* (Cth).
- (e) Vestabyte or we or us means Vestabyte Pty Ltd ACN 603 155 540 trading as Vestabyte.
- (f) Financial Services means:
 - (i) Providing general financial product advice in relation to securities; or
 - (ii) Dealing in securities by applying for, acquiring, varying or disposing of securities on behalf of another, or arranging for a person to do any of those things.
- (g) Intellectual Property Rights means statutory and other proprietary rights in respect of copyright and neighbouring rights, all rights in relation to inventions, patents, plant varieties, registered and unregistered trademarks, registered and unregistered designs, circuit layouts and confidential information, but does not include moral rights that are not transferable.
- (h) Investor means a subscribed user interested in making an investment or who has made an investment in one of the listings on the site.

- (i) Licence is Australian Financial Services License.
- (j) Offer means a formal offer listed on the Vestabyte crowd funding platform pursuant to which an offer of an interest in a Project is made to the Investor in return for the Trustee receiving the Investor's Investment Sum.
- (k) Policies means any Vestabyte policies that feature on the Website from time to time (and as amended from time to time), and includes the Privacy Policy.
- (l) Privacy Policy means the Vestabyte Privacy Policy.
- (m) Profile Page corresponds to the projects details as listed on the financial planners subdomain.
- (n) Project is a real estate based project.
- (o) Project Developer is an entity with overall responsibility for the planning, design, and/or construction of new real estate projects
- (p) Project Terms are the terms associated with the offer related to the Project.
- (q) Promoter is a type of registered Vestabyte website user who seeks to raise funds for a Project
- (r) Retail Investor means a person who is not a Wholesale Investor.
- (s) Services means any services and facilities provided on or through or by means of the Website or associated with the Website.
- (t) Subscription Conditions has the meaning given in section 10.
- (u) Transaction means:
 - (i) in the case of an Investor – the steps involved in, and the process of, contributing funds to a Project by accepting the Offer applicable to the Project;
 - (ii) in the case of a Promoter – the steps involved in, and the process of, making an Offer to an Investor and, if the Offer is accepted, issuing shares or units in a specific scheme associated with that offer to that Investor in accordance with the terms of the Offer.
- (v) Trustee means Guardian Securities Limited, in its capacity as responsible entity of the Guardian Investment Fund, ARSN 168 048 057.
- (w) Website means the Vestabyte website located at www.vestabyte.com.
- (x) you means you (whether you are an individual or an organisation) and, where the context permits or requires, includes a Project Developer or Investor and anyone acting on behalf of the aforementioned persons with their express or implied authority.