

# Terms Of Use

#### General

- 1. As consideration for allowing me/us the user (user / me / us / I / we) to view, visit and/or use Brookvalecapital.com.au's website, located at the url, www.Brookvalecapital.com.au (Site), or any other website owned by Brookvalecapital.com.au, I/we agree to the following terms and conditions of use (Terms and Conditions).
- 2. Content means text, data, speech, music or other sounds, visual images (animated or otherwise) in any form, or in any combination of forms.
- 3. Facilities means any feature that appears on the Site for users to use.
- 4. Member Account means an account created by a user for the purposes of accessing the Sites enhanced Content and Facilities.
- 5. By viewing the Content, using the Facilities on the Site or creating a user Account, I/we acknowledge and agree that I/we have had sufficient opportunity to read and understand these Terms and Conditions, and that I/we are legally able to agree to be bound by them.
- 6. If I/we do not agree to these Terms and Conditions, I/we should leave this Site immediately.
- 7. These Terms and Conditions constitute a binding agreement between me/us and Brookvalecapital.com.au, its agents, subsidiaries, affiliates, successor entities and / or assigned entities.

#### Permitted Use

- 8. Brookvalecapital.com.au reserves all copyright in the Content and design of the Site. Brookvalecapital.com.au owns all such copyright and/or provides it to users under the terms of a limited licence embodied in these Terms and Conditions each time users visit the Site.
- 9. users may download, print or copy Content provided on the Site for users own use. Unless provided with a mechanism to do so, users must not sell, lease, furnish or otherwise permit or cause others to provide access to the Site.
- 10. users must not use, reproduce, communicate, publish, or distribute any of the Content on Brookvalecapital.com.au's Site, unless this constitutes a fair dealing for the purposes of the Copyright Act 1968 (Cth) (Act).
- 11. Other than for the purposes of and subject to the conditions prescribed under the Act as otherwise provided for in these Terms and Conditions, no part of the Content may in any
- 12. microcopying, photocopying or recording be reproduced, adapted, stored in a retrieval system or transmitted without prior written permission.

## Prohibitions on Use of Site

- 19. This Site and the information and facilities contained herein must not be used in any manner that infringes Brookvalecapital.com.au rights. users must not:
- a. data mine or conduct automated searches on the Site or the Content on the Site, whether through the use of additional software or otherwise;
- b. frame or mirror the Site;
- c. tamper with, hinder the operation of, or make unauthorised modifications to the Site or any of its Content;
- d. transmit any virus, worm or other disabling feature to or via the Site;
- e. access, monitor or copy any Content of the Site using any robot, spider, scraper or other automated means or any manual process for any purpose;

- f. abuse, defame, harass, stalk, threaten or otherwise violate Brookvalecapital.com.au's rights or another user's legal rights;
- g. advertise or offer to conduct or forward surveys, contests, or chain letters from the Site or the domain;
- h. delete any author attributions, legal notices or proprietary designations or labels in any file that is uploaded by a user;
- i. use the Site to send commercial, unsolicited or bulk electronic messages to anyone or in any other way which would constitute an infringement of the Spam Act 2003 (Cth);

#### Take down procedure

- 20. Brookvalecapital.com.au takes all reasonable steps to be aware of Content published by users on the Site. Brookvalecapital.com.au commits to remove all material as soon as practical after it is notified that Content may be a breach of copyright or other intellectual property rights, is defamatory or otherwise claimed to be illegal.
- 21. To notify Brookvalecapital.com.au of a claimed infringement of Copyright, a notification can be sent to Brookvalecapital.com.au that includes the following information:
- a. the alleged material in which copyright is claimed and its location on the Site;
- b. information about the complaining party (Complainant) including for example:
- address;
- telephone number (land line and mobile);
- email address;
- an electronic or physical signature of the copyright owner or authorised agent of the owner of the allegedly infringing material;
- identification of the material that is claimed to be infringing or to be subject to infringing activity and that is to be removed and information reasonably sufficient to permit Brookvalecapital.com.au to locate the materials;
- a statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, agent, or the law; and
- a statement that the information in the notification is accurate and, under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringing.
- 22. users acknowledge and agree that if Brookvalecapital.com.au receives a notice of a claim of copyright infringement, it may immediately remove the material from the Site without further notice.
- 23. To notify Brookvalecapital.com.au of material that is believed should be removed from the Site, other than because of alleged Copyright, an email can be sent to the address displayed on Brookvalecapital.com.au's contact page.
- 24. In using the Site, users are deemed to also accept the terms and conditions of Brookvalecapital.com.au's Privacy Policy.

## Provision of Service

- 25. Brookvalecapital.com.au may without notice suspend access to the Site or disconnect or deny users access to any part of the Site during any technical failure or maintenance period.
- 26. Brookvalecapital.com.au may also choose at its sole discretion to block or deny any particular user with access to any of the Content or Facilities contained on the Site.
- 27. Brookvalecapital.com.au may make improvements and or changes to the Site and the Content at any time without notice. Brookvalecapital.com.au does not warrant that the information, architecture or navigation will not change now or at any time in future.

### **Intellectual Property Rights**

- 28. The Content on the Site including, without limitation, all text, graphics, images, photos, video, computer code, software, scripts, multimedia files, trademarks, features and logos are owned by or licensed to Brookvalecapital.com.au and are subject to copyright and other intellectual property rights under Australian laws and international conventions.
- 29. Brookvalecapital.com.au reserves all rights not expressly granted in and to the Site and the Content contained therein.
- 30. If users download, print or otherwise deal with any Content, users must retain all copyright and other proprietary notices contained thereon. users agree not to circumvent, disable or otherwise interfere with security related features of the Site or features that prevent or restrict use or copying of any Content to enforce limitations on the use of the Site or the Content.

## Disclaimer and Limitation of Liability

- 31. users access the Site at their own risk and are responsible for compliance with the laws of their jurisdiction in addition to those contained in these Terms and Conditions.
- 32. Brookvalecapital.com.au makes the Site available for users to use, however it does not assume a duty of care to users. Brookvalecapital.com.au makes no representation and provides no warranty regarding the quality, accuracy, completeness, merchantability or fitness for purpose of the Content on the Site.
- 33. If relying on the Content, users must make their own investigations to ensure its accuracy before relying on the Content.

### Disclaimer of warranties

- 34. users expressly acknowledge and agree that, to the maximum extent permitted by law:
- a. their use of the Site is at their sole risk. The service is provided on an "as is" and "as available" basis;
- b. Brookvalecapital.com.au and its officers, employees, agents, expressly disclaim all warranties of any kind, whether express or implied, including, but not limited to the implied warranties of merchantability, fitness for a particular purpose and non-infringement;
- c. Brookvalecapital.com.au makes no warranty that:
- d. the Content will meet users requirements;
- e. the information contained in the Content is accurate or reliable;
- f. the Content will be uninterrupted, timely, secure or error-free;
- g. the quality of the Content, or other material obtained by users through the Site will meet users expectations; and
- h. any errors will be corrected;
- i. any Content downloaded or otherwise obtained through the use of the Site is accessed at users own discretion and risk, and users will be solely responsible for any damage to their computer or loss of data that results from the download of the Content; and
- j. no advice or information, whether oral or written, obtained by users from Brookvalecapital.com.au or through or from the Content creates any warranty not expressly stated herein.

#### Limitation of liability

- 35. Except for certain statutory warranties under consumer protection laws, Brookvalecapital.com.au does not provide any guarantee or warranty or make any representation of any kind, either express or implied, in relation to the Content or user's use of the Content on the Site.
- 36. Subject to any claims available under consumer protection laws, Brookvalecapital.com.au, its officers, employees, agents are not liable for any loss or damage, including, but not limited to, direct, indirect or consequential losses including any form of consequential loss such as any third party loss, loss of profits, loss of revenue, loss of opportunity, loss of anticipated savings, pure economic loss and an increased operating cost, personal injury or death, however suffered or sustained in connection with:
- a. any inaccurate or incorrect information provided on the Site;
- b. users use of the Content;
- c. any failure or delay including, but not limited to, the use or inability to use any of the Content;
- d. any interference with or damage to users' computer systems which occurs in connection with the use of the Content;
- e. the cost of procurements of substitute goods and Content resulting from any goods or Content purchased or obtained through the Site; and/or
- f. any unauthorised access to or alteration of users' Account information.
- 37. For claims that cannot be excluded or restricted under consumer protection laws, the liability of Brookvalecapital.com.au for such a claim will (at Brookvalecapital.com.au option and to the extent permitted by law) be limited to:
- a. if the breach relates to Content:
- b. resupplying those or equivalent Content; or
- c. paying the cost of having those Content resupplied.

# Links to third party Sites

38. Brookvalecapital.com.au does not represent that the Content on other websites, to which the Site contains links to, does not inadvertently infringe the intellectual property rights of any person anywhere in the world.

39. By inadvertently linking to infringing third party content, Brookvalecapital.com.au is not authorising infringement of any intellectual property rights contained on those websites. users are advised to contact Brookvalecapital.com.au to notify us/them of any links users allege are infringements.

### Miscellaneous conditions

- 40. No representation or warranty is made that the Content on the Site complies with the laws of any country outside of Australia. If users access the Site from outside Australia users do so at their own risk.
- 41. Brookvalecapital.com.au may be the owner of several common law (or where indicated), registered trademarks which appear on the Site. Unauthorised use of these trademarks will infringe its intellectual property rights. If users have infringed Brookvalecapital.com.au's rights in this regard, it reserves its right to take action against me/us.
- 42. Brookvalecapital.com.au may change the Terms and Conditions at its discretion by providing notice on the Site. The version of the Terms and Conditions that applies to users will be available on the Site each time a user visits the Site.
- 43. These Terms and Conditions and any warranties implied by law which are not capable of being excluded or modified amount to the entire agreement with the users. Any contact with Brookvalecapital.com.au's Officers, Agents or Authorised Representatives that includes any statements representations, warranties (if any) whether expressed or implied, including any collateral agreement or warranty, with reference to the subject matter or the intentions of either of the parties are merged and otherwise are excluded and cancelled by those contained in these Terms and Conditions.
- 44. By using the Site, users indemnify Brookvalecapital.com.au and its respective officers, employees, subsidiaries and agents against any claim or proceeding that is made, threatened or commenced, and any liability, loss, damage or expense (including reasonable legal costs on a full indemnity basis) that Brookvalecapital.com.au may incur or suffer as a direct or indirect result of:
- a. a breach of these Terms and Conditions of Use;
- b. an actual or alleged breach by you of any law, legislation, regulation, by-law or code of conduct caused by data uploaded or downloaded from our Site; and/or
- c. any claims brought by or on behalf of any third party relating to any act or omission by you, including breach of a third parties copyright or trade mark.
- 45. The laws of Victoria and Australia govern this Agreement. users submit to the non-exclusive jurisdiction of the Supreme Court of Victoria and the Federal Court of Australia.
- 46. If any part of these Terms and Conditions are found to be void, unlawful or unenforceable then that part will be deemed to be severable from the balance of the document and the severed part will not affect the validity and enforceability of the remaining Terms and Conditions.
- 47. If users do not act in relation to a particular breach by users of these Terms and Conditions, this will not be treated as a waiver of Brookvalecapital.com.au's right to act with respect to subsequent or similar breaches.
- 48. To the extent possible, Brookvalecapital.com.au chooses to carry out all transactions by means of electronic communication in accordance with the Electronic Transactions Act 1999 (Cth) and any regulations. users consent to using electronic means to form, or agree, or agree to, or bind users to, legal obligations. Therefore, where users indicate through electronic means their agreement to, or acceptance of, terms and conditions, offers and other documents, users will be taken to have agreed to, or signed them.
- 49. To access Brookvalecapital.com.au's services users will also need to agree to receive notices, information and other disclosures in electronic form. Brookvalecapital.com.au carries out all transactions by means of electronic communication in accordance with the Electronic Transactions Act 1999 (Cth) and any regulations.
- 50. All information relating to or provided due to a requirement of the National Credit Code is only applicable if the loan falls within the meaning of credit under the code.
- 51. By checking the box and/or clicking on the "agree" button I/we are taken to have accepted the the above terms. Checking the "agree" button of this electronically signed document is the same as providing a written signature under the terms of the Electronic Transactions Act 1999 (Cth).
- 52. Brookvalecapital.com.au and any reference to Brookvalecapital.com.au includes Brookvale Capital Pty Ltd, Brookvale Capital Funds Management Pty Ltd, it and any other parent companies, subsidiaries, affiliates, successors, assignors, brokers, insurers, lenders, investors and agents and this agreement extends to them.