

# SuperGuardian Terms and Conditions

SuperGuardian Pty Ltd (SuperGuardian) is a specialised firm of Chartered Accountants.

In this Agreement, the Client means the trustees of the proposed or registered self managed superannuation fund (SMSF), or the directors of the corporate trustee of the SMSF (in their personal capacity as director) (as applicable) at all relevant times.

By commencing use of the SuperGuardian services, the Client acknowledges that the receipt and benefit of the services is subject to the following terms and conditions, which the Client agrees to be bound by.

## 1. APPOINTMENT OF SUPERGUARDIAN

### Initial Appointment

- 1.1 If the Client does not have an existing SMSF, the Client appoints SuperGuardian to establish an SMSF in accordance with the details submitted by the Client using the Client Engagement Form.
- 1.2 The Client appoints SuperGuardian to provide accounting, administration, compliance and taxation services for their SMSF.

### Establishment as a SuperGuardian Client

- 1.3 The Client must submit a completed Client Engagement Form online, or otherwise provide a signed and completed hardcopy to SuperGuardian. By submitting a Client Engagement Form, the Client will be liable for the fees payable for using the services.
- 1.4 Payment of the establishment fee for SuperGuardian to initiate setup of the SMSF will be by direct debit following the Client's execution of the Direct Debit Authority Form, but may be requested in advance of SuperGuardian's establishment of the SMSF.
- 1.5 The Client shall sign and promptly return to SuperGuardian all documents relating to SMSF establishment to assist with the timely setup of the SuperGuardian service.

### Services to select from

- 1.6 The Client will be required to select one of the following services for the administration of the SMSF:
  - (a) All-inclusive SMSF accounting, tax and compliance, including online reporting, management of SMSF paperwork, forwarding on any documentation that needs to be executed, handling the administration of the Client's pension, conducting ongoing reviews of SMSF transactions and arranging the annual independent audit (SGDaily); or
  - (b) An annual service for completion of the year end accounting, tax and compliance, pension administration if applicable and arrangement of the independent audit (SGAnnual).

## 2. SUPERGUARDIAN'S OBLIGATIONS – SGDAILY

SuperGuardian will undertake the following work if the Client has selected SGDAILY:

### Investment Administration and Reconciliation

- 2.1 SuperGuardian will establish and maintain the administration for a SMSF. SuperGuardian will act as the registered address for all investment related correspondence.
- 2.2 Depending on the frequency of account processing, SuperGuardian will undertake a full reconciliation against the SMSF's bank account.
- 2.3 SuperGuardian will advise the Client or nominated Adviser of any errors or exceptions identified during the course of processing.
- 2.4 For SGDAILY clients, SuperGuardian will provide daily online reporting where banks and financial institutions provide electronic data to the third party software platform utilized by SuperGuardian. From time to time unknown items may appear online in a 'suspense' account until we receive confirmation of a transaction.
- 2.5 SuperGuardian will aim to ensure the accuracy of its online reporting, however, will rely on the Client to supply information on unknown items on a timely basis.

### Capital Gains Tax Records

- 2.6 Capital gains tax records will be maintained by SuperGuardian.

### Corporate Actions – Mergers/Takeovers, Bonus Shares

- 2.7 SuperGuardian will forward correspondence relating to corporate actions where we are the direct mailing address for an SMSF. The Client is ultimately responsible for actioning each SMSF's response in relation to these.

### Administration and Accounting

- 2.8 SuperGuardian will use accounting software including technologies provided by third parties to effectively deliver the services as set out in this document.

### Membership Records

- 2.9 Detailed membership records will be maintained by SuperGuardian for each member of each SMSF.

Member statements are updated monthly and available online. Individual member balances, rollover and contribution information, tax and preservation components are included on the Member Statements.

### Lump Sum Withdrawals

- 2.10 Lump Sum withdrawal documents are prepared and lodged by SuperGuardian for the members of the SMSF, including preparation and management of associated documentation, such as minutes, payment summaries and other registration requirements prescribed by the Australian Tax Office (ATO).

### Pensions

- 2.11 SuperGuardian will arrange for the conversion of accumulation balances to pensions where required, including calculation and payment of pensions and PAYG withholding tax to be remitted to the ATO and preparation of all associated documentation.

### BAS/IAS

- 2.12 SuperGuardian will prepare and lodge Business Activity Statements and Instalment Activity Statements in accordance with the SMSF's GST registration and PAYG obligations.

### Member Contribution Surcharge Reporting

- 2.13 SuperGuardian will prepare and lodge with the ATO the necessary reports as well as review surcharge liabilities applicable to members.

### 290-170 Notices

- 2.14 SuperGuardian will prepare a notice in the approved form as required by section 290-170 of the Income Tax Assessment Act 1997 for member contributions and confirm all contributions received by the SMSF for members.

### Annual Reporting

- 2.15 At the end of each year, the following reports will be prepared:
  - Operating Statement (Profit and Loss)
  - Statement of Financial Position (Balance Sheet)
  - Notes to Accounts
  - Member Statements
  - Annual Taxation and Regulatory Return
  - Minutes of Meetings/Resolutions of Trustees

Whilst the income tax expense estimate for the fund will be reflected in the online accounts, the final tax liability can only be determined once all year-end tax statements have been received.

These reports will be sent to clients for signing and return. The timing of this is at the discretion of SuperGuardian, though will be within the prescribed ATO lodgment deadlines.

### Audit

- 2.16 The client hereby agrees SuperGuardian will engage the SMSF Auditor directly to undertake the annual audit for the term of the agreement with SuperGuardian.

### Rollovers

- 2.17 The client hereby acknowledges SuperGuardian can facilitate preparation of the rollover documentation.

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## Property

- 2.18 Where the SMSF invests in property, the Client agrees to provide all material requested on the annual property checklist in full in a timely manner.
- 2.19 The Client agrees to arrange the annual property valuation either independently or via SuperGuardian for a fixed fee.
- 2.20 Commercial property with more than one tenant or property being developed will attract additional fees.

## Strategic Advice

- 2.21 SuperGuardian can provide strategic advice in relation to:
- SMSF Structuring;
  - Member contribution strategies;
  - Pension strategies;
  - Adhoc strategies.

## 3. SUPERGUARDIAN'S OBLIGATIONS – SGAnnual

SuperGuardian will prepare the following reports on an annual basis:

- Operating Statement (Profit and Loss)
- Statement of Financial Position (Balance Sheet)
- Notes to Accounts
- Member Statements
- Annual Taxation and Regulatory Return
- Minutes of Meetings/Resolutions of Trustees

When electing to utilise SGAnnual, the Client acknowledges and agrees that they are responsible for the SMSF compliance and administration at all times.

## 4. THE CLIENT'S OBLIGATIONS

The Client agrees that SuperGuardian will have no obligations under this Agreement until such time as:

- 4.1
- The Client has paid the establishment fee in full;
  - The Client has signed the direct debit authority and returned it to SuperGuardian;
  - The Client has signed and returned a witnessed Limited Power of Attorney;
  - The Client has established SuperGuardian as the registered address for the SMSF, and notified SuperGuardian of all investment holdings and relevant information. The Client agrees to bear any additional charges by external organisations in providing duplicates of documentation relating to the SMSF.

## 5. FEES PAYABLE TO SUPERGUARDIAN Establishment Fee

- 5.1 The Client acknowledges and agrees that an establishment fee for a new SMSF is payable upon submission of a Client Engagement Form.

The professional fees for administering an existing SMSF are by quotation from SuperGuardian. Where there has been previous activity within a SMSF, the accounting for this activity will be undertaken on a fee for time basis and debited to the SMSF within 3 months of the date of the Client Engagement form. Please contact us directly for an indication of what these fees may be.

## Current Fees

- 5.2 SuperGuardian's current schedule of professional fees and charges is set out in the schedule annexed to this Agreement.

## Deduction of Fees – SGDaily

- 5.3 The administration and accounting fee is deducted on a monthly basis on or around the 28th day of the month from the superannuation fund bank account by direct debit.
- It is the Client's responsibility to ensure there are sufficient funds available in the bank account to meet the direct debit request.
- Where there are insufficient funds in an account to meet the direct debit, a dishonour fee of \$15 will be passed on to the SMSF.

## Payment of Fees – SGAnnual

- 5.4 The professional fees will be charged on a time basis at our nominated hourly rate as set out in the schedule annexed to this Agreement. The rate applicable may vary depending on the nature and complexity of the work involved, i.e. having regard to whether it is routine accounting advice or more complex technical and compliance advice. SuperGuardian will advise you of any increased hourly rate, if and when it is applicable.

## Payment

- 5.5 Notwithstanding any other term of this Agreement, SuperGuardian may send a tax invoice for services to the Client from time to time, and the Client will make payment in accordance with the method prescribed by the invoice.

## Interest

- 5.6 If an invoice remains unpaid for 30 days after you receive it, SuperGuardian may charge you interest from that date to the date we receive payment. SuperGuardian may charge you interest at the rate equal to the Cash Rate Target (being the percentage (or maximum percentage) specified by the Reserve Bank of Australia as the Cash Rate Target) as at the date of the invoice plus 2%.

## Ownership and Risk

- 5.7 The title to any documents prepared for the Client does not pass to the Client until payment in full has been made. Until payment is received, SuperGuardian is not obligated to supply documents and information to the Client but the Client is treated as having received those documents and services. All risks of compliance with the SIS legislation remains the responsibility of the Client.

## Goods and Services Tax (GST)

- 5.8 SuperGuardian's billing process will generally involve increasing amounts for both professional fees and disbursements by the prevailing GST rate (currently 10%) to take into account the GST liability we pay as a result of the supply of our services. For disbursements:
- We will incur most disbursements as principal, deduct the input tax credit (if any) to which we are entitled, and then increase the resulting GST exclusive amount by 10%; and
  - If we think it is desirable for us to incur some disbursements as the Client's agent, then we will do so, enabling the GST-free status of the disbursements to be preserved in your hands (e.g. stamp duty).

## 6. ACKNOWLEDGEMENT

SuperGuardian undertakes that in providing the accounting and administration services, it will exercise all reasonable care and skill. The Client acknowledges that SuperGuardian does not give investment or legal advice, and is not liable for the rate of return or investment decisions for the SMSF.

## 7. SUPERGUARDIAN LIABILITY

- 7.1 The Competition and Consumer Act 2010 (Cth) and other laws imply certain conditions, warranties and rights into contracts that cannot be excluded or limited. Without excluding those unlimited rights, SuperGuardian gives no condition, warranty or undertaking or makes any representation to the Client about any activities, administration, accounting and advice, its quality, fitness or suitability other than as set out in this Agreement. Any liability SuperGuardian may have to the Client under these laws that cannot be excluded but that can be limited, is (at SuperGuardian's option) limited to:
- (a) Providing equivalent services provided under the Agreement with the Client; or
  - (b) Paying to the Client the cost of replacing the services provided under this Agreement with the Client or acquiring equivalent replacement goods or services.

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7.2 To the extent permitted by law:

- (a) SuperGuardian will have no liability whatsoever to you for any loss, harm, damage, cost or expense (including legal fees) in the nature of special, indirect or consequential loss or damage (including, without limitation, economic loss, loss of contract, loss of profit or revenue, loss of opportunity, loss of production, production stoppage or loss of data); and
- (b) SuperGuardian's aggregate liability to you arising directly or indirectly under or in connection with this Agreement or the performance or non-performance of this Agreement and whether arising under any indemnity, statute, in tort (for negligence or otherwise), or on any other basis in law or equity is limited to an amount not exceeding the fees actually paid by you under this Agreement in the 12 month period immediately preceding the relevant event.

7.3 This clause 7 survives the termination of any contract with the Client.

## 8. ALTERATIONS AND VARIATIONS

8.1 SuperGuardian may vary the terms and conditions set out in this Agreement at any time. When varying a term or condition, SuperGuardian will notify any changes to the Client.

If the Client does not agree to the change, the Client may terminate this Agreement as set out in clause 10.1.

8.2 SuperGuardian has the right to vary:

- (a) Its charges to reflect any change in any regulation or government imposed charges after giving the Client 30 days' written notice; and
- (b) Its professional fees from time to time in its reasonable discretion by prior notice to the Client.

If the Client does not agree to the variation, the Client may terminate this Agreement with SuperGuardian as set out in clause 10.1.

## 9. FORCE MAJEURE

In the event that SuperGuardian is prevented from carrying out its obligations owed to the Client as a result of any cause beyond its control such as but not limited to acts of God, war, strike, lock out, flood and failure of third parties, SuperGuardian will be relieved of its obligations and liabilities owed to the Client.

## 10. TERMINATION

10.1 The services to be provided by SuperGuardian to the Client may be terminated without cause by either party upon 1 month's notice in writing to the other party. The SuperGuardian monthly fee will be debited for 1 month post the termination date.

10.2 SuperGuardian may suspend the supply of services on reasonable grounds including where the Client is, or there is a reasonable likelihood that the Client is, insolvent.

## 11. CONSEQUENCES OF TERMINATION

If SuperGuardian's services are terminated then:

- 11.1 The Client will be responsible for arranging the annual return, regulatory reporting and audits for the current financial year and any other work that would have previously been completed by SuperGuardian (except as listed below) and the cost of each of these activities, then
- 11.2 If fees payable to SuperGuardian are outstanding, services are suspended (at SuperGuardian's option) until outstanding payments are made, then
- 11.3 SuperGuardian will complete the work due to the last day of the month in which termination is advised,
- 11.4 SuperGuardian will by fifteen (15) days after the tasks in clause 11.3 are completed, have all documentation relating to the SMSF available for collection by the Client,

11.5 The Client is responsible for arranging any redirecting of mail and related activities, and

11.6 The Client will pay to SuperGuardian all reasonable costs and expenses incurred by SuperGuardian (on a full indemnity basis) where SuperGuardian agrees to complete additional tasks to those set out in this clause.

## 12. CLIENT ACKNOWLEDGMENTS

The Client acknowledges and agrees that:

- 12.1 SuperGuardian is not responsible for the management of the SMSF or compliance of the SMSF with superannuation laws;
- 12.2 The Client must make their own assessment and take professional advice to ensure that the service being provided is appropriate and suitable for their circumstances, and that the Client complies with all relevant laws in connection with the SMSF;
- 12.3 The Client is obliged to ensure that investments of the SMSF are authorised investments; and
- 12.4 The Client must advise of any change in details of the SMSF, including trustees or directors of a corporate trustee.

## 13. CLIENT UNDERTAKINGS

The Client undertakes to:

- 13.1 Ensure that all SMSF investments are registered in the name of the trustee(s) and the name of the SMSF;
- 13.2 Ensure that SuperGuardian is the sole administrator of the investments of the SMSF
- 13.3 Assist SuperGuardian by, within a reasonable time and without delay, providing us with any documents or information that we may reasonably request from the Client that is necessary for the provision of the service;
- 13.4 Immediately notify SuperGuardian if they receive a determination that the SMSF is non-complying or for any reason ceases to exist or of any other matter that may affect the administration of the SMSF; and
- 13.5 Notify SuperGuardian as soon as practicable where any information previously supplied to us has changed or is incorrect.

## 14. GENERAL

- 14.1 A term or part of a term of this Agreement that is illegal or unenforceable may be severed from this Agreement and the remaining terms or parts of the terms continue in force.
- 14.2 Any term by its nature intended to survive termination of this Agreement survives termination of this Agreement.
- 14.3 The laws of South Australia govern this Agreement, and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of South Australia.

## FEEDBACK FOR SUPERGUARDIAN

Client satisfaction is extremely important to the team at SuperGuardian. If you would like to provide any feedback or complaints regarding our superannuation service, please forward it in writing addressed to:

**The Directors  
SuperGuardian  
GPO Box 1215  
Adelaide SA 5001**

We will endeavour to respond to any written feedback within 10 business days of receipt.