

Introduction

These Terms of Business, together with our Terms of Engagement (Engagement Letter) and any Scope of Services documents, form the entire agreement (the Contract) between the New Zealand Firm of PricewaterhouseCoopers (PwC) and all addressees of the engagement letter. If there is any conflict between these terms and the engagement letter, the engagement letter will prevail. Unless otherwise agreed in writing, any further work we may carry out in connection with this service will be carried out as part of this Contract.

1. Services

- 1.1. We will provide the services described in the engagement letter (the services).
- 1.2. You are responsible for determining that the scope of the services is sufficient to meet your needs.
- 1.3. Unless specifically stated to the contrary in the engagement letter:
 - (i) we may allocate appropriate partners and staff to perform the services and may replace any personnel named in the engagement letter with personnel of similar skill;
 - (ii) timetabled dates are intended for planning and estimating purposes only and are not contractually binding;
 - (iii) the services do not involve an audit or examination conducted in accordance with New Zealand auditing standards and we will not express an opinion on any financial statements or information taken as a whole, nor provide any opinion on the achievability of prospective financial information;
 - (iv) we will rely on the information that you provide and will not verify that information;
 - (v) the services do not include the provision of legal advice or legal due diligence services;
 - (vi) if the services or your reliance on the services depend upon laws, regulations or interpretations by the Courts or Government agencies, we are not responsible for any changes in those laws, regulations or interpretations (whether or not having retrospective effect) which occur after the date of our report and are not required to notify you of such changes;
 - (vii) the services are not designed to reveal fraud or misrepresentation. Accordingly, we do not accept responsibility for detecting fraud or misrepresentation whether by directors, management, staff or external parties;
 - (viii) we are not responsible for the work of any other person who you engage to perform work in conjunction with our services;
 - (ix) where the services are for appointment as Statutory Auditor, Receiver or Liquidator these have the meaning in statute law;
 - (x) where the words Examination, Compilation, Review, Opinion, Assurance or Agreed Upon Procedures are used to specify any services those words have the meanings assigned to them in professional standards issued by either the New Zealand Institute of Chartered Accountants (now trading as Chartered Accountants Australia and New Zealand) or the External Reporting Board.

2. Client responsibilities

- 2.1. You agree that you will:
 - (i) provide, in a timely fashion, all information, assistance and facilities that we require to enable us to provide the services;
 - (ii) provide information that is true, accurate and not misleading;
 - (iii) use the results of the services only for the purpose for which the services are provided;
 - (iv) advise all of our personnel who visit your premises of what is required of them in relation to health and safety, including location and use of safety equipment, emergency evacuations, and the reporting procedures for accidents and hazards and other matters.

3. Reliance on our work

- 3.1. Our final written report or other final product of the services will identify the persons to whom the report is addressed. Any oral comments or drafts of written reports or any other communications made prior to the final written report or other final product of the services do not represent our final conclusions and should not be relied upon.
- 3.2. Our report or other final product of the services should not be relied upon by management of the addressee of our report, or advisers to the addressee, in their personal capacities.

4. Disclosure of our work

- 4.1. The services are provided for your use only and we accept no responsibility or liability to any other person other than those who have engaged us and to whom we report.
- 4.2. You must not disclose any report or other information provided as part of the services to any other person without our prior written consent.

- 4.3. You must not use our name in connection with any prospectus, information memorandum or other offer or marketing document, whether public or private, without our prior written consent.

5. Fees and disbursements

- 5.1. Unless otherwise agreed, our fees are calculated on the basis of time spent and on the level of skill and responsibility involved in providing the services.
 - (i) In addition to our fees, a charge of 5% of the fees will be added to cover disbursements.
 - (ii) Goods and services tax will be added where applicable.
 - (iii) You also agree to pay reasonable professional fees and expenses, including legal fees and expenses, in complying with or challenging any legally enforceable notice or demand issued by a third party including any government department or any court or tribunal in relation to or in connection with the services.
- 5.2. Our invoices are due for payment upon receipt. If payment is not received within 14 days we reserve the right to suspend provision of the services and/or charge interest on the outstanding amount at a rate of 3% above the current 90 day bank bill rate.
- 5.3. Any fee estimate is given in good faith but is not contractually binding.

6. Liability limitation

- 6.1. Our liability for any loss or damage that you suffer caused by our breach of contract, tort (including negligence), breach of fiduciary duty or other actionable wrong of any kind shall be limited as follows:
 - (i) we shall have no liability for any consequential or indirect loss or loss of profit;
 - (ii) our liability will be reduced to take into account any contributory negligence on your part pursuant to the Contributory Negligence Act 1947;
 - (iii) in the event that more than one person caused or contributed towards your loss, our liability to you will be limited to the proportion of the loss that the Court would apportion to us under section 17 of the Law Reform Act 1936, based on an assessment of our degree of responsibility and the responsibility of the others who contributed to the loss (whether or not those other persons are able to meet any liability they may have);
 - (iv) notwithstanding the foregoing, our liability for loss shall in no circumstances exceed the amount of 5 times the total fees paid in the case of non-recurring work or 5 times the annual fees paid in the case of recurring work (the liability cap) or such other amount specified as the liability cap in the engagement letter.
 - 6.2. Where there is more than one addressee to the engagement letter, the amount of our liability as derived from clause 6.1 above is a total limit to be allocated between addressees, such allocation being entirely a matter for the addressees, who will be under no obligation to inform us of it.
- ### 7. Time limit for claims
- 7.1. No legal proceedings may be commenced later than two years after the date on which the party bringing the claim became aware or ought reasonably to have become aware of the act or omission on which the claim is based.
 - 7.2. In any event, no legal proceedings may be commenced more than four years after the date of the act or omission on which the claim is based.

8. Indemnity

- 8.1. To the maximum extent permitted by law, you agree to indemnify PwC, its partners and staff, and other PricewaterhouseCoopers firms and their partners and staff, and to hold each harmless against any liabilities, losses, expenses and other costs, including legal costs and the cost of PwC professional time reasonably incurred in connection with any claims, inquiries, investigations or similar matters whether made against them or you by any third party arising out of or in any way connected with the services.
- 8.2. Clause 8.1 is for the benefit of PwC's partners and staff, and other PricewaterhouseCoopers firms and their partners and staff who may enforce this clause under the Contract and Commercial Law Act 2017, Part 2, Subpart 1.

9. Contract solely with PwC

- 9.1. You agree that in relation to the services and the Contract the client relationship is solely with PwC. Accordingly, you agree not to bring a claim of any nature against any partner, employee, contractor or sub-contractor of PwC or against any other member firm of the global network of PricewaterhouseCoopers firms.
- 9.2. Clause 9.1 is for the benefit of PwC's partners, employees, contractors, sub-contractors, and other PricewaterhouseCoopers firms and their employees, contractors and sub-contractors who may enforce this clause under the Contract and Commercial Law Act 2017, Part 2, Subpart 1.

10. Confidentiality

- 10.1. Subject to any need to make disclosures required by law or professional ethical obligation, both parties agree that information or documents received by or provided to the other for the purposes of the Contract and provision of the services, or are marked confidential or are manifestly confidential (confidential information) will be treated as confidential, except if the information:
 - (i) is or becomes generally available to the public other than by a breach of the obligations under the Contract,

- (ii) is known to the parties prior to entering into the Contract, or
- (iii) is received from a third party who owes no obligation of confidence in respect of the information.

10.2. You agree that PwC may disclose confidential information:

- (i) for the purpose of providing the services and on a "need to know" basis, to our personnel (including contractors, subcontractors and suppliers) and other PricewaterhouseCoopers firms involved in the provision of the services, and to our insurers or legal advisors, provided these parties are subject to confidentiality obligations;
- (ii) to the Financial Markets Authority, or any party appointed by the Financial Markets Authority to undertake reviews on its behalf in relation to quality control reviews performed in accordance with the Financial Markets Authority Act 2011, or any quality review completed by the New Zealand Institute of Chartered Accountants (now trading as Chartered Accountants Australia and New Zealand) as part of its quality review process defined in the New Zealand Institute of Chartered Accountants Rules;
- (iii) once a completed transaction is no longer confidential, we may cite the performance of the services to clients and prospective clients as an indication of our experience;
- (iv) to other PricewaterhouseCoopers firms involved in engagement quality reviews, management of our client relationship systems, or maintenance of our computer services; or
- (v) if necessary to meet any legal request from a New Zealand or overseas governmental agency.

10.3. We each agree to take reasonable precautions to protect our own information technology systems, including implementing reasonable procedures to guard against viruses and unauthorised interception, access, use, corruption, loss or delay of electronic communications.

11. Data Protection and privacy

- 11.1. Each party to the Contract will comply with the data protection legislation, including the Privacy Act 1993, applicable to itself, in relation to any personal data shared in connection with the Contract. We agree to cooperate with each other in addressing our respective privacy obligations in connection with the services.
- 11.2. You will not provide PwC with personal data unless the personal data is required for the performance of the Contract. In respect of any personal data shared with PwC, you confirm you have the necessary authority for PwC to use it in accordance with the Contract, and that data subjects have been given necessary information regarding its use.
- 11.3. Each party may process personal data for the purposes of any of:
 - (i) performing the Contract;
 - (ii) security, quality and risk management activities;
 - (iii) complying with any requirement of law, regulation or a professional body of which it is a member;
 - (iv) administering, managing and developing its business and services;
 - (v) providing information about itself and its range of services

Additional information about how PwC uses personal data is set out in our Privacy Policy, available on www.pwc.co.nz/privacy.

- 11.4. Each party may transfer personal data shared with it to any of its affiliates or contractors or subcontractors or suppliers in relation to any set of the purposes set out in clause 11. Some of these recipients may be located outside the country or territory where the personal data originated or the data subjects are located. Each party may transfer the personal data only where it has a lawful basis to do so and any appropriate contractual or comparable safeguards required by applicable data protection legislation are in place to protect the personal data being transferred.

12. Ownership and destruction of working papers

- 12.1. The working papers that we produce in the course of performing the services are our property and we have no obligation to disclose our working papers to you or to any other person.
- 12.2. You acknowledge that we may, after a period of time, destroy our working papers, reports and other records relating to the services, including any of your documents that have come into our possession, in accordance with our standard procedures relating to document retention.

13. Intellectual property rights

- 13.1. Intellectual property rights in all documentation, systems, materials, methodologies and processes (tools) brought to and utilised by PwC in relation to the services or created in the course of providing the services, and in all working papers and reports, remain vested in PwC.
- 13.2. Subject to the requirement to treat confidential information as confidential any spreadsheet, database, system, technique, methodology, idea, concept, information or know-how developed in the course of the Contract may be used in any way we deem appropriate, including by or for our clients, without any obligation to account to you.
- 13.3. In the case of documentation or software prepared by PwC for you we may, on termination or completion of the Contract, retain one copy of such information as a professional record of our involvement.

14. Other Engagements

- 14.1. Nothing in this Contract prevents PwC from providing services to other clients provided that we take reasonable steps to ensure that each client's confidential information is not disclosed to other clients.
- 14.2. This Contract is separate from other engagements that we may perform for you or for other clients and we have no obligation to utilise knowledge gained from such other engagements when performing the services under this Contract.
- 14.3. By entering into this Contract and providing the services, we do not assume a responsibility to you in relation to any reports or opinions that we may have provided under separate engagements, including statutory audit reports, or in relation to any other work that we may have performed for any other client, whether or not that client is the subject of the services.

15. Circumstances outside the Parties control

- 15.1. Neither party will be liable to the other for any failure to fulfil obligations caused by circumstances outside its reasonable control.

16. Assignment

- 16.1. Neither party may assign, transfer, charge or otherwise deal with its rights or obligations under the Contract without the prior written consent of the other party, except that each may transfer its respective rights and obligations to a partnership or legal entity authorised to take over all or part of its business.

17. Termination of Contract

- 17.1. The Contract may be terminated by either party by written notice. If we are no longer permitted to provide you with a particular service detailed in the Contract due to audit independence standards, we will work with you to immediately vary or terminate the Contract.
- 17.2. You will pay PwC for all services provided up to the date of termination.
- 17.3. Where you terminate the Contract before we have completed the services, you will pay any additional costs that we incur in connection with the early termination.
- 17.4. The provisions of the Contract which expressly or by implication are intended to survive its termination or expiry will survive and continue to bind both parties.

18. Entire agreement

- 18.1. The Contract forms the entire agreement between the parties.
- 18.2. To the extent permissible by law all warranties, conditions, representations and liabilities or terms other than those expressly stated are excluded.
- 18.3. If any term of the Contract is held to be invalid the enforceability of the remainder of the Contract will not be affected.

19. Resolving disputes

- 19.1. The Contract is governed by New Zealand law.
- 19.2. Should any dispute arise, the parties will attempt to resolve it in good faith by senior level negotiations (this may include mediation using the services of an agreed mediator).
- 19.3. If the dispute is not resolved through negotiation or mediation the New Zealand Courts will have exclusive jurisdiction, over all claims that may arise out of or in connection with the Contract.
- 19.4. Each party hereby irrevocably waives any claim that an action is brought in an inconvenient forum, or that the New Zealand Courts do not have jurisdiction.

20. Sub-contractors selected by you

- 20.1. Where you are using third parties in connection with the Services to be provided in accordance with this Contract, you will ensure that you have appropriate agreements with them. Unless agreed otherwise in the Engagement Letter, you will be responsible for the management of those third parties and the quality of their input and work.
- 20.2. Where you require PwC to contract the services of a sub-contractor specified by you, you will accept responsibility for the work to be performed by such sub-contractor. PwC will not be responsible or liable to you or to any other person for the work performed by, or for any act, omission, default or neglect of, such sub-contractor. In the above circumstances, you will be responsible and liable for, and will indemnify PwC against and from, any liability which PwC may incur to any person and against all claims, demands, proceedings, damages, losses, costs and expenses made against, suffered or incurred by PwC, directly or indirectly as a result of or in connection with the work performed by any such sub-contractor.

21. Employment

- 21.1. During the term of this Contract or within 12 months of its termination or completion, neither party will directly or indirectly solicit for employment any of the other party's employees who have been providing Services or otherwise connected with this Contract without the other party's prior written consent.