

Terms & Conditions

1. Agreement

- 1.1: To the extent that there is any conflict between the engagement letter and these terms and conditions, the engagement letter will prevail.
- 1.2: In this Agreement, "we", "our" and "us" refer to Sellar & Sellar and "you" and "your" refers to the addressee of the attached engagement letter ("Addressee") and any other entity listed in the engagement letter (each an "Entity").

2. Anti Money-Laundering

- 2.1: We have obligations under the Anti Money-Laundering and Countering Financing of Terrorism Act 2009, and other anti money-laundering laws and regulations. As part of these obligations, we may need to obtain certain information about you and persons acting on your behalf.
- 2.2: You agree to provide any information we reasonably request, to the persons and in the forms we request, for the purpose of our compliance with anti money-laundering laws. You acknowledge that, until you provide this information, we may not be able to provide Services to you.

3. Services

- 3.1: We will provide the Services outlined in this agreement to you.
- 3.2: If there is a material change to the Services to be provided (e.g. additional services), we must agree in writing to provide those services in a supplementary or replacement engagement letter which will specify the scope of the further appointment.
- 3.3: Unless otherwise agreed in writing, our advice and the Services are provided solely for your benefit and no advice or other information provided by us is to be passed on, made available or relied on by any third party.

4. Fees

- 4.1: Unless otherwise agreed, progress fees will be provided throughout the performance of the engagement. Invoices are due and payable when rendered and you must pay the amount specified on the invoice within 14 days of receipt of the invoice.
- 4.2: If we are required to incur costs on your behalf (such as software subscriptions, travel and mobile calls) we may add these to our fee. We may also add a 5% service charge to cover the cost of disbursements of stationery and ancillary office services. We may also charge an additional fee having regard to factors such as the urgency, circumstances in which the matter is undertaken, any time limitation imposed, the complexity of the matter and the skill or specialised knowledge required to perform the Services properly.
- 4.3: Unless otherwise specifically agreed in the engagement letter, the fee estimates we provide are only estimates and the actual fees charged may differ from the fee estimates provided. We will let you know if we consider the estimate is likely to be materially exceeded.
- 4.4: You must tell us immediately if you receive an invoice on which you have any questions or which you anticipate will not be paid within the 14 days. We may charge interest at a rate of 2% per month (pro-rated daily) on all overdue amounts, including any interest previously charged.
- 4.5: In the event of default in payment to us by any entity for which this engagement letter incorporates, you, or any entity in the same Group as you (with the exception of any Sellar & Sellar related corporate trustee), severally shall be liable to pay the amount in default and all costs incurred by us, including our adviser's costs on a solicitor-client basis and debt collector's costs incurred in the recovery or attempted recovery of outstanding moneys and enforcement of any of the terms contained in this Agreement.

5. GST

- 5.1: If goods and services tax (GST) is payable by us in relation to any supply made by us to you, you agree to pay to us that GST amount in addition to our fees and disbursements. We will provide you with a valid tax invoice where GST is payable by you to us.

6. Conflict of Interest

- 6.1: Unless otherwise notified, we are not presently aware of any conflict of interest which would affect our ability to provide the Services to you. We will advise you if we become aware of any potential conflict of interest during the course of our engagement and we will work with you to find a suitable solution. However, if a conflict or potential conflict arises we may be required to terminate this agreement.

7. Information and Documents

You agree:

- 7.1: To provide us on a timely basis with all the information and documents we reasonably request or require to provide the Services (including access to records, staff, premises, information technology and other systems);
- 7.2: That the information and documents provided by you (or on your behalf) will be accurate, complete and not misleading and, if you become aware that any information or document provided to us has become inaccurate, incomplete or misleading, you will promptly notify us;
- 7.3: That we may, and you acknowledge that we will (unless otherwise agreed), rely on the information and documents provided to us as accurate, complete and not misleading without seeking further independent verification or clarification; and
- 7.4: We will not be responsible or liable if the information (including documents) which is provided to us or we are instructed to obtain under or in relation to this Agreement is or becomes inaccurate, incomplete or misleading.
- 7.5: You warrant that all information provided to us complies with the Privacy Act 2020 and does not (and will not for the term of our engagement) cause us to breach the intellectual property or other rights of any third party.
- 7.6: If you provide us with custody of any document in relation to this Agreement, we will retain that document for the term of this Agreement and endeavour to return it to you at the end of the term (unless its earlier return is requested).
- 7.7: Each document that you supply to us and all final end product documents we produce and supply to you (except for audit reports, review engagements or similar such opinions) under or in relation to this Agreement, will be or remain your property. However, the working papers and drafts we produce under or relation to this Agreement (that do not form part of our final end product documents) are our property.
- 7.8: Where we consider it reasonably practicable, we will inform you and seek your consent before granting access to the working papers to any third party. In certain circumstances, statutory authorities (such as but not limited to the Inland Revenue, Chartered Accountants Australia and New Zealand, the Financial Markets Authority), may request access to information and work papers and we may not be legally able to prevent such access.
- 7.9: We may retain copies of any correspondence and any documents for our records or to meet our legal obligations. We may also destroy any correspondence or documents if we believe they are no longer needed for legal reasons.

8. Electronic Communication

- 8.1: We strongly recommend that all clients use an up to date virus checker on their computers to avoid the transfer of viruses to other systems. If you provide us with electronic documents or e-mail attachments for use on our system and it contains a virus, we may require you to use an alternative method to transfer your information to us in future.
- 8.2: We each accept the risks inherent in electronic communications and cyber security and will each be responsible for protecting our own systems and interests in relation to electronic communications and cyber-events. As such, neither you nor us (in each case including our respective partners, directors, employees, sub-contractors or agents) will have any liability to each other on any basis, whether in contract, tort (including negligence) or otherwise, in respect of any damage, loss or omission arising from or in connection with the cyber-events or electronic information transfers between us.
- 8.3: We each agree that, where a document requires a signature (either by you or us), it will be sufficient for that signature to be provided in an electronic format. You agree to provide your signature in an electronic format (including by using an online electronic documentation signing process such as Adobesign, Docusign, or other) if Sellar & Sellar requests.
- 8.4: By confirming your Acceptance (as described in the engagement letter), you consent to the receipt of our newsletter and any other business, accounting and tax related information we may send by way of email from time to time. In addition, you are expressly waiving the requirement for us to include a functional unsubscribe facility in the principal message by which such information is transmitted.

9. Confidentiality and Privacy Statement

- 9.1: Where necessary to enable us to deliver the Services, you may provide us with, or we may have access to, information relating to an identified or identifiable individual.
- 9.2: In making personal data available to us, you confirm that you have complied with applicable data protection law ('Data Protection Law') in relation to personal data that you may provide to us, or we may have access to pursuant to the terms of our Engagement Letter and that you agree that you will not knowingly cause us to breach Data Protection Law.
- 9.3: We agree to comply with Data Protection Law applicable to us and will not knowingly cause you to breach Data Protection Law in the performance of the Services.
- 9.4: You agree that we (and any third party instructed on our behalf) may process personal or other information that you have provided to us or that we access for the purposes of providing the Services to you, advancing our relationship with you, keeping you up-to-date in relation to our services and industry developments, and other purposes related to our business.
- 9.5: We agree that when we process personal data on your behalf in the performance of the Services we will:
Only process personal data on your documented instructions and if we are legally required to process personal data otherwise than as instructed by you, we will notify you before such processing occurs unless prohibited by law;
- 9.6: Implement appropriate technical and organisational measures to ensure a level of security appropriate to the risk to the rights and freedoms of individuals and in case of a breach of security leading to any accidental or unlawful destruction, loss, alteration, or unauthorised disclosure or access to the personal data, we will notify you without undue delay upon becoming aware of it;
- 9.7: Only disclose personal data to our authorised personnel to the extent that they have a need to know for the purpose of providing the Services and are subject to appropriate obligations of confidentiality,
- 9.8: Answer your reasonable enquiries to enable you to monitor our compliance with this clause and provide you with reasonable assistance to enable you to comply with Data Protection Law;
- 9.9: Upon termination or expiry of this engagement, promptly return to you or, if requested by you, destroy all copies of the personal data, in which case any right for us to use, copy or disclose that personal data ceases unless applicable law, professional standards, legal process or anticipation of legal claims requires us to continue to store the personal data in which case we will keep the personal data confidential and will not process the personal data otherwise than in accordance with your instructions or as required by applicable law and/or professional standards.
- 9.10: For the purposes of clause 9.5, you agree that we may sub-contract our processing of personal data to third parties ("contractor") who are bound by appropriate confidentiality and security obligations consistent with the terms of clause 9.5 and this clause 9.6, and we acknowledge that we will remain fully liable to you for the performance of the contractor's obligations under the terms of its contract with us.
- 9.11: From time to time we may be required to disclose your information to regulatory bodies outside of New Zealand. Those regulatory bodies may not be required to protect your information in a way that, overall, provides comparable safeguards to those in the Privacy Act 2020. You agree to authorise us to disclose your information to those regulatory bodies where we are required to do so.
- 9.12: We may use the credentials obtained in doing work for you in internal and external publicity material. We will ask your permission before publicly claiming credit for our work for you.
- 9.13: We will use reasonable security safeguards not to disclose any confidential information that we obtain from you under or in relation to this Agreement to any other person without your permission. You permit that information to be disclosed:
- By us, as required in the ordinary course of business to provide the Services to you in an efficient and effective manner or for our quality assurance process;
 - By us, to any of our partners, employees, contractors, agents (each a Third Party);
 - By any Third Party to its respective providers and/or another Third Party, in each case, for the purpose of providing the Services to you and
 - If made reasonably necessary by law, regulation, Court or arbitration proceedings, regulatory authorities, professional duty or to otherwise protect our own interests (including to our professional advisers).
- 9.13 Unless otherwise agreed in writing, we may:
- Refer to our work for you in proposals (or other similar submissions to prospective clients); and
 - Provide your information (on an anonymised basis) for statistical, research or benchmarking purposes, so long as

your information is not used or published in a way that could reasonably be expected to identify you.

- 9.14 Unless otherwise agreed in writing, you will not name us or refer to us in connection with written materials or publicly filed documents, other than to your professional advisers. Where you are permitted to disclose material we provide to you, you must not edit or modify the material.

- 9.15 You acknowledge that our processes, concepts and techniques are our property and confidential information. You will not disclose to third parties any confidential information relating to us or our processes, ideas, concepts or techniques, unless you are required to do so by law, in which case, to the extent permitted by law, you will inform us of the person(s) to whom you are required to disclose the information, the information that requires disclosure, and any other information we reasonably request.

10. Limitation of Liability

- 10.1: We will only be liable to you for losses, damages, costs or expenses actually suffered by you and caused by our negligence or wilful default ("Losses") that are direct. You agree that:

- This Agreement is enforceable by the Addressee only. Where the Addressee has signed this engagement letter in its own right and on behalf of any other Entities, that Addressee may include the Losses of those other Entities in any claim that the Addressee may wish to make against us under this Agreement, even if the Addressee has not incurred those Losses itself. Despite this clause, this Agreement may be varied by written agreement between the Addressee and us only.
- Our aggregate liability arising from or in any way connected with this engagement, whether to you and/or any other party, of whatever nature and whatsoever and howsoever caused, will be limited to the Losses suffered by you and the maximum amount of such liability will not exceed four times the fee actually paid for the particular part of the Services giving rise to the claim;
- We shall have no other liability of any nature, whether in contract, tort or otherwise, for any other Losses, whatsoever and howsoever caused, arising from or in any way connected with this engagement (including all indirect Losses, consequential Losses, loss of profits, revenue, anticipated savings, business opportunity, wasted expenditure, goodwill and any Losses resulting from liability to any third party); and
- We will not be liable if such Losses are due to any acts or omissions of any person other than us and we will only bear the part of any Losses that is proportionate to the Losses we have directly caused or contributed to. In determining responsibility for the Losses caused or contributed to, account shall be taken of any Losses to be reasonably attributable to any third party.

- 10.2 You must make all claims in relation to this Agreement to us, in writing, and no later than two years after the date we completed the specific work to which the claim relates.

- 10.3 Unless agree otherwise in a separate engagement letter, we accept no responsibility or liability in relation to any advice we provide regarding company or partnership distributions and/or the solvency test under company or partnership law.

- 10.4 We each agree that nothing in this Agreement shall exclude, restrict (or prevent a claim in respect of) any liability arising from fraud, dishonesty or any other liabilities or Losses which cannot lawfully be excluded.

- 10.5 We each agree that the limitation of liability in this clause 10 extends to any variation and any addition to the Agreement and to all claims, including any claims arising from breach of contract, negligence or in any other way.

11. Indemnities

- 11.1: You indemnify us and all partners, employees and/or agents of Sellar & Sellar, or such parties' successors and/or assignees (together the "S&S Parties") against all actions and Losses resulting from or in relation to;

- 11.2: Any breach of, or default under, this Agreement by you

- 11.3: Any infringement or alleged infringement of any intellectual property or other rights in any information or documents provided to us or which we are instructed to obtain;

- 11.4: Our reliance on information provided to us or which we are instructed to obtain that is or becomes inaccurate, incomplete or misleading;

- 11.5: A third party using or relying on our advice or information;

- 11.6: To the extent permitted by law, any circumstance where we are required to provide information about you to a regulator in order to comply with statutory obligations, including to the Commerce Commission or the Serious Fraud Office, and/or

- 11.7: Any reasonable costs or expenses (including legal costs on a solicitor and own client basis) that we or the Sellar & Sellar Parties may incur in respect of such Losses or liability.
- 11.8: You agree that you will not bring any action against the S&S Parties and that you will indemnify on demand and hold the S&S Parties harmless against all actions, claims, proceedings, Losses, damages, costs and expenses whatsoever and howsoever caused arising from or in any way connected with this engagement, unless, and to the extent that, they have been finally and judicially determined (including by the conclusion of any appeal) to have been caused by the fraud, dishonesty, wilful default or negligence of a S&S Party.
- 11.9: The indemnities referred to above will be enforceable by us and the S&S Parties (individually or collectively) whether or not legal proceedings are instituted and, if legal proceedings are instituted, irrespective of the means of any settlement, compromise or determination.
- 11.10: All the provisions of this Agreement which refer to the S&S Parties are intended to be for the benefit of, and are enforceable against you by, the S&S Parties (individually or collectively) and us (if applicable), each in our own right, for the purposes of the Contracts and Commercial Law Act 2017. Despite this clause, this Agreement may be varied by written agreement between the Addressee and us only.
- 12. Our Employees**
- 12.1: From time to time, our partners, employees and/or contractors may work from your premises. Unless we agree otherwise, the location from which Sellar & Sellar's staff performs the Services will be determined by Sellar & Sellar in its sole discretion. If and when they do, you will comply with all relevant statutes, bylaws, codes of practice and legal requirements in relation to them being on, and working from, your premises.
- 12.2: You will not offer employment to any of our employees or induce any of our employees to end their employment with us without the prior written permission of a Sellar & Sellar partner. You also agree not to procure or assist anyone else to do this. In addition to breaching this Agreement, you acknowledge that if you offer or induce any of our employees to end their employment with us you may be assisting or procuring a breach of a restraint of trade between Sellar & Sellar and the employee.
- 13. Health and Safety**
- We will each:
- 13.1: Comply with our obligations under the Health and Safety at Work Act 2015 and any applicable health and safety related regulations or codes of practices ("H&S Law"); and:
Co-operate, consult and co-ordinate activities with each other and any other PCBU who has a duty under H&S Law in relation to this Agreement to ensure each party can comply with its H&S Law duties. "PCBU" has the meaning set out in the Act.
- 13.2: You will:
- Where reasonably practicable, provide our staff with a health and safety briefing prior to commencing work at or visiting your workplace; and
 - Comply with all reasonable instructions from us in relation to health and safety matters affecting our people.
- 13.3: Each party agrees that works carried out at its workplace will be governed by its health and safety policy. However, if the work being carried out is in the other party's area of expertise and is under the other party's immediate control, then that other party's health and safety policy will apply for those specific works.
- 14. Commencement and Termination**
- 14.1: This engagement will commence when you confirm you Acceptance to this engagement and this engagement shall continue in force until the engagement ends, or is terminated by either party.
- 14.2: We each may terminate this Agreement by giving 30 days written notice to the other party. Additionally, we reserve the right to terminate or suspend the Agreement immediately where you fail to meet your obligations, become insolvent or if we believe, in our sole discretion, that immediate termination or suspension is warranted. Termination or suspension will not affect any accrued rights of a party. For the avoidance of doubt, we will be entitled to our fees incurred until the date of termination or suspension.
- 14.3: Any provision of this Agreement which is intended to apply after termination (including, but not limited to, provisions relating to confidentiality, indemnity, claims, limitation of liability, fees and termination) will continue to apply after termination.
- 15. Variation**
- 15.1: We may vary these terms and conditions at any time. In that event, we will notify you of the variation and the date it will take effect (the "Effective Date"). If you do not accept the variation, you must notify us before the Effective Date, in which case the

variation will not apply to this Agreement. If you do not notify us before the Effective Date, that variation will take effect from the Effective Date.

16. Applicable Law and Governing Jurisdiction

- 16.1: We both agree that this Agreement shall be governed and construed in accordance with the laws of New Zealand and each party submits to the non-exclusive jurisdiction of the Courts of New Zealand.
- 16.2: A reference to any law is a reference to that law as modified, updated, or replaced from time to time.

17. Assignment

- 17.1: You may not assign this Agreement or the performance of the Services to any third party without our prior written consent.
- 17.2: Sellar & Sellar may assign this Agreement or the performance of the Services by providing written notice of the assignment to the Addressee.

18. Severability

- 18.1: If any terms or provisions of this Agreement (or parts thereof) are or become invalid, illegal or unenforceable, the remainder shall survive unaffected to the fullest extent permitted by law.
- 18.2: If a court holds that any provision of this Agreement or its duration is unenforceable, illegal, or invalid but any such provision would be enforceable if it was modified or limited, then that provision shall be so modified or limited to the extent necessary.

19. Events Beyond our Control

- 19.1: We are not liable to you for any failure, or delay in performing our obligations under this Agreement if the failure or delay arose from a cause beyond our reasonable control.

20. Our Advice

- 20.1: Any advice or material we provide to you orally, in draft or otherwise must be finalised and in written form before you can rely upon it.
- 20.2: Any finalised advice we provide will be current at the time of its issue. We are not obliged to update the advice once it has been finalised and do not undertake to do so. If an action that we have advised on is delayed or you want to repeat a transaction, you must ask us to confirm our previous advice before you can rely on it. We may charge you for confirming (or updating) our previous advice.
- 20.3: If our advice includes a summary of our understanding of the facts or background on which our advice is based, you must immediately advise us if the summary does not accurately reflect your understanding of the facts or background.

21. Right to Claim a Lien over Documents and Files

- 21.1: It is agreed that we will be entitled to exercise a particular lien over all the files and related documents that relate to the outstanding invoice(s) and that come into our possession for the purpose of performing professional services for you until our invoices for professional services of any nature to you (including any interest charges) have been fully paid.

22. Ethical and Practice Guidelines

- 22.1: We will observe the ethical guidelines of Chartered Accountants Australia and New Zealand and accept instructions to act for you on the basis that we will act in accordance with those guidelines.

23. Quality of Service

- 23.1: If you, at any time, believe our service to you could be improved, or if you are dissatisfied with any aspect of the Service (including any potential dispute arising out of or in connection with this Agreement), you must raise the matter with the partner responsible for providing the Services to you before looking to other mechanisms for resolving the matter. If, for any reason, you would prefer to discuss the matters with someone other than that partner, please contact our Business Manager. You will give us a reasonable period of time to deal with the matter.
- 23.2: If after having had discussions in accordance with clause 23.1 you reasonably believe the matter requires further resolution, we shall both make reasonable efforts to resolve the matter by some form of alternative dispute resolution method (such as mediation or expert appraisal) before commencing any court proceedings.
- 23.3: We will investigate all complaints. You have the right to take any complaint to Chartered Accountants Australia and New Zealand.