

KBA ACCOUNTANTS PTY LTD

STANDARD TERMS AND CONDITIONS

These Standard Terms and Conditions form part of the Engagement Agreement between KBA Accountants Pty Ltd ABN 52 667 227 876 (**we, us, our, our firm**) and our client (**you, your**) to carry out the **Services** as described in the Engagement Letter enclosing these Standard Terms and Conditions or in other documents attached to that letter.

1. ENGAGEMENT TERM

The engagement will commence at the time you indicate acceptance of these terms and will continue until revoked by us or you in writing.

2. OUR OBLIGATIONS

We are obliged to consider whether our clients create any threats to compliance with our fundamental principles and where we cannot reduce the risk to an acceptable level, we are obliged to cease the engagement under the code (section 320) to decline or cease the client engagement.

We have a duty to act in your best interests unless this duty is inconsistent with our duty to act in the public interest.

We are responsible for maintaining records for a period of at least five years unless otherwise required by legislation.

3. ACCEPTANCE OF OUR TERMS

- a) If you engage us you (and, where applicable, your guarantors) will be bound by the terms and conditions set out in this these Standard Terms and Conditions and the Engagement Letter. Where there is any conflict between the terms and conditions set out in this these Standard Terms and Conditions and the provisions of the Engagement Letter, the Engagement Letter will prevail to the extent of any inconsistency.
- b) You must:
 - (i) provide us with timely, accurate and proper instructions, including all documents, records or other such information required for the proper performance of the Services including access to appropriate members of your staff, records, information, technology, systems and premises;
 - (ii) act reasonably and take reasonable care to protect your own interests with respect to the matters that are the subject of this document;
 - (iii) satisfy yourself as to the commercial viability of any transactions;
 - (iv) where relevant, investigate the bona fides of the other parties to any transaction, checking all financial matters and assessing the commercial soundness of the transactions and taking appropriate legal and other professional advice; and
 - (v) pay our professional fees and expenses when required.
- c) You agree that:

- (i) we are entitled to rely upon the accuracy of all information provided by you, or by others on your behalf, without independently verifying it;
- (ii) you must retain responsibility for the use of, or reliance on, advice or recommendations supplied by us in the delivery of the Services;
- (iii) if after information is provided by you to us to render such information as untrue, unfair or misleading, you must properly notify us and, if required by us, take all necessary steps to correct any announcement, communication or document issued which contains, refers to or is based upon such information.

4. **GOODS & SERVICES TAX**

All fees, expenses, rates and charges etc referred to in our Engagement Agreement are GST inclusive unless otherwise stated to be exclusive of GST. Subject to the GST law, we reserve the right to determine the manner in which any GST inclusive charges are set out in our tax invoices, on an aggregate or itemised basis.

5. **BILLING, INTEREST CHARGES AND CONTACT PERSON**

- a) tax invoices detailing professional fees and expenses and any other charges and GST will usually be sent to you shortly after completion of the Services.
- b) our tax invoices are payable upon receipt. If a tax invoice remains unpaid for 30 days after becoming due for payment, interest may be charged on the unpaid amount at the rate equal to the current official cash rate as determined by the reserve bank as at the date of the tax invoice plus two percentage points, and calculated from the date of the tax invoice and an admin fee of \$110 but lets ensure this is not necessary.
- c) If we decide to engage a debt collection agency or solicitor to enforce payment of our debt, then all costs incurred by our firm for their services will be added to your outstanding debt and will be required to be fully paid along with the outstanding debt. But again, let's all ensure this is not necessary.
- d) Should you wish to dispute our fees this needs to be performed in writing within 30 days of the date of the invoice otherwise you forfeit the right to dispute the fee.
- e) in the event that you do not pay a tax invoice owed to us, then in addition to our other rights, we are entitled to retain all your documents until the tax invoice is paid.
- f) if we are required (pursuant to any order, subpoena, directive or other legal or regulatory process) to produce documents and/or information, answer enquiries, attend court or meetings or deal with any similar requests in relation to the Services for, or by, any judicial, regulatory, administrative or similar body or entity, you must reimburse us at our standard billing rates for our professional time and expenses (including reasonable legal fees) incurred in dealing with those matters.
- g) you will be deemed to have received a tax invoice from us if it is:
 - (i) given to you or to your agent personally – on the day it is given to you;
 - (ii) sent to you by post, at the last address provided by you, or to your agent – within two days of the date of posting; or
 - (iii) sent by email to an email address provided by you – the day after the date of the email transmission.
 - (iv) Electronic signing - the day after the date of the email transmission.

6. **WITHHOLDING TAX AND GROSS UP**

All our tax invoices are issued on the basis that we will receive the total amount billed. If you are obliged to pay withholding tax or any other tax in respect of any part of our tax invoice, that amount must not be deducted from it. If we receive a refund in respect of any withholding tax or any other tax for which you have effectively reimbursed us, we will pay to you the amount of that refund less any costs we incur in obtaining it.

7. **APPORTIONMENT OF LIABILITY**

You agree that if you should claim compensation, damage or contribution from us for loss or damage claimed to have been suffered by you arising from acts or defaults (including negligence) on our part and such loss or damage is in part or wholly due to or contributed to by:

- a) your own acts or defaults or by the acts or defaults of other persons for whom you are responsible; or
- b) the actionable conduct of one or more other persons not being partners, employees or agents for whom we bear responsibility,

then we will be liable only for that proportion of the loss or damage suffered which our acts or defaults bear, relative to the totality of the actionable conduct of all persons causing or contributing to the loss or damage.

In this clause **actionable conduct** means conduct (including a failure to act) in breach of any obligation, standard or duty imposed by law, statute or contract.

Where any law relating to proportionate liability applies to a claim against us, this clause does not seek to exclude the operation of that law but will continue to operate to the extent that such operation is not inconsistent with that law.

8. **USE OF SERVICES**

Advice that we give you and documents which we prepare in any matter or transaction in which we are acting for you are specifically given or prepared in relation to that matter or transaction only, and must not be relied upon by:

- a) you in relation to any other matter or transaction; or
- b) any other person or entity,

without our prior written consent.

We will not be under any obligation in any circumstance to update any advice or report, oral or written, for events occurring after the advice or report has been issued in final form.

9. **CHANGES TO OUR WORK**

If we provide a document to you or to another party and changes are made to that document by someone other than us, we are not responsible for any loss caused by the changes unless we have specifically approved them.

10. **EMAIL COMMUNICATION**

During the course of the Services, we may communicate with you and third parties by email unless otherwise agreed. This communication may consist of information, advice, opinions and copies of documents.

We cannot guarantee the security of any emails sent or received using the internet and will not be liable for any copying, recording, reading or interference by others during, or after, a transmission, for any delay or non delivery, or for any damage caused in connection with the transmission.

If you would prefer not to communicate by email, or there is particular material that you do not wish to be sent using the internet, please tell us and we can discuss an alternative method of communication with you.

You may not rely on any electronically transmitted advice or opinion unless it is ultimately confirmed by fax or letter signed by a partner or other authorised signatory of our Firm.

11. **COPYRIGHT**

Copyright subsists in advice and other documents prepared by us and will remain our property, subject of course to your right to use that advice and those documents in relation to the matter or transaction for which they were provided. The advice and documents must not, without prior written consent, be:

- a) reproduced or used by you in relation to any other transaction or matter; or
- b) provided to any other person or entity.

12. RETENTION, STORAGE AND RETRIEVAL OF YOUR DOCUMENTS

- a) On completion of the Services you must retrieve from us any original documents you have provided to us or which have been created during the course of your matter (**your documents**); and
- b) If you wish to retrieve or obtain from us your documents or contents of your file, you will need to make those arrangements yourself, at your expense.
- c) You understand that we have your authority to destroy the file, including those papers, six (6) months after the date of the final tax invoice rendered by us in the matter. If you do not retrieve (your documents)

13. PRIVACY

- a) The Privacy Act 1988 (Cth) and other privacy and health records legislation applies when we collect, use and disclose Personal Information. **Personal Information** means information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion.
- b) You agree that we may collect Personal Information through your instructions and while acting for you. This includes Personal Information about individuals who are employees, directors or principals of corporate clients. You agree to ensure that these individuals are aware and agree that our acting for you may involve collection of Personal Information about them. We will use such Personal Information in the course of acting for you and we may disclose Personal Information to our service entities or agents and to other organisations including other parties in the matter and government agencies responsible for processing transactions, but only to the extent necessary to give effect to your instructions and in accordance with our professional obligations (including our obligations as explained in this Engagement Agreement), or as required by law. If we do not collect such Personal Information we may not be able to carry out your instructions. In most cases individuals, whose Personal Information we hold, are able to gain access to that information upon request.
- c) Contact details and other information (such as information about areas of interest) we hold about individuals may also be used by us (and disclosed to our service entities) to keep those individuals informed about developments in relevant areas of law or other legal services or seminars we may offer (including by email and other electronic communications). However, if at any time an individual tells us that they do not wish their Personal Information to be used for this purpose we will act in accordance with their request to the extent we are able.

14. SEVERABILITY

Any provision of this Engagement Agreement which is illegal, void or unenforceable is only ineffective to the extent of that illegality, voidness or unenforceability, without invalidating the remaining provisions.

15. JURISDICTION AND GOVERNING LAW

Our Engagement Agreement and all aspects of the performance of our Services for you are governed by, and you agree to be bound by, the laws of Queensland. You irrevocably submit to the exclusive jurisdiction of the courts of Queensland.

16. AMENDMENT TO ENGAGEMENT AGREEMENT

We may periodically review this Engagement Agreement, including the quantum of our professional fees and expenses and the basis on which they are charged. Should amendments be required, we will notify you in writing and request you to agree to them. Any amendments to this Engagement Agreement must be made in writing and agreed to by all parties.

17. TERMINATION OF ENGAGEMENT AGREEMENT

- a) You may terminate this Engagement Agreement at any time by written notice to us.
- b) We may terminate this Engagement Agreement at any time by written notice to you.

- c) We may suspend work or may terminate this Engagement Agreement and cease acting for you:
- (i) if you fail to pay our tax invoices as required from time to time;
 - (ii) if you fail to provide us with adequate instructions within a reasonable time;
 - (iii) if you give instructions that are false or misleading;
 - (iv) if you fail to accept advice we give you;
 - (v) if you engage other accountants to advise you on a matter without our agreement;
 - (vi) if we, on reasonable grounds, believe that we may have a conflict of interest or duty or there is any fact or circumstance which may prejudice our ability to comply with any auditor independence requirement;
 - (vii) if you ask us to act unethically;
 - (viii) if you become subject to external control, become insolvent or are likely, in our reasonable opinion, to become so;
 - (ix) if you act in a manner, or give evidence of having lost confidence in us and/or our ability to carry out the Services;
 - (x) you are otherwise in breach of this Engagement Agreement; or
 - (xi) for any other just or reasonable cause.
- d) If the Engagement Agreement is terminated either by you or by us, you will be required to pay our professional fees and expenses up to the date of termination.
- e) We will give you notice of our intention to terminate this Engagement Agreement and of the grounds on which the notice is based.
- f) On termination, regardless of who terminates the Engagement Agreement, we will be entitled to retain possession of your documents and trust money while there is money owing to us by you or any person who is related to you or controlled by you for our professional fees and expenses.

ACCEPTANCE BY CLIENT

Signature

Signed by

Date

Signature

Signed by

Date