

Terms and Conditions

Our Services

1. **Scope** – We will perform the services described in our engagement letter in a conscientious, timely and efficient manner and with due care, diligence and skill reasonably expected of a professional provider of services of the kind described in the engagement letter including compliance with relevant legislation and professional standards applicable.
2. **Changes** – Either of us may request a change to the services, or anything else in this agreement. A change will not be effective unless we have both agreed to it in writing.
3. **Oral Advice and draft deliverables** – You may only rely on our final written deliverables. If you wish to rely on something we have told you, please let us know so that we can prepare a written deliverable.
4. **Services for your benefit** – Our services are provided solely for your use for the purpose set out in our engagement letter or the relevant deliverable. Except as stated in our engagement letter or the relevant deliverable, as required by law, or with our prior written consent, you may not:
 - a. Show or provide a deliverable to any third party or include or refer to a deliverable or our name or logo in a public comment,
 - b. Make any public statement about us or the services.

We consent to you providing copies of deliverables to your legal advisers and relevant bodies corporate provided they have agreed:

 - I. The deliverables are not for their use or benefit,
 - II. We accept no responsibility or liability to them,
 - III. They may not do any things referred to in paragraph a) or b) above.
5. **No liability to third parties** – We accept no liability or responsibility to any third party in connection with our services. You agree to reimburse us for any liability (including reasonable legal costs) we incur in connection with any claim by a third party arising from your breach of this agreement.
6. **Additional terms for legal services** – Our services are not legal services.

No Audit Required

We understand that an audit of your financial statements and income tax returns is not required and therefore we will not express an opinion as to the truth and fairness of the financial statements. You or your team will be responsible for maintaining and regularly balancing all books of accounts. The financial statements prepared will contain an appropriate disclaimer that identifies the extent and limitation of our role. We are entitled to rely on the records provided as being both accurate and complete

While our engagement does not include the audit of your financial statements or income tax returns, we are required by the Tax Agents Services Act 2009 to satisfy ourselves as to the reasonableness of the information and claims being made in your income tax returns. The legislation provides the basis for this and may require us to make further enquiries with you from time to time in relation to your taxation returns. Where possible, we will endeavour to identify the information that will be required in advance.

Our engagement cannot be relied upon to disclose irregularities, including fraud, other illegal acts and errors that may exist.

Our Obligation to Comply with the Law

We have a duty to act in your best interests. However, the duty to act in your best interests is subject to an overriding obligation to comply with the law even if that may require us to act in a manner that may be contrary to your interests. For example, we could not lodge an income tax return for you that we knew to be false in a material respect.

We also have an obligation to ensure that we manage conflicts of interest as they arise. In this regard, we have arrangements in place to ensure that we manage potential or actual conflicts of interest. The effective operation of these arrangements depends, in part, on you complying with your obligation to disclose any potential conflicts of interest to us (see section below).

Unless otherwise stated, this opinion is based on the Australian tax law in force and the practice of the Australian Taxation Office (the ATO) applicable as at the date of this letter.

Our advice and/or services will be based on Australian taxation law in force at the date of the provision of the advice and/or services. It is your responsibility to seek updated advice if you intend to rely on our advice at a later stage. We note that Australian taxation laws are often subject to frequent change and our advice will not be updated unless specifically requested by you at the time of the change in law or announced change in law.

Your Obligations & Rights

Generally – You agree to:

- a) Provide us promptly with all information, instructions and access to third parties we reasonably require to perform the services including letting us know if you want to use information we hold from other engagements performed for you,
- b) Ensure we are permitted to use any third party information or intellectual property rights you require us to perform the services,
- c) Provide adequate and safe facilities for us when we work at your premises.

Interdependence – Our performance depends on you also performing your obligations under this agreement. You agree we are not liable for any default to the extent it arises because you do not fulfil your obligations or because information supplied is, or becomes, inaccurate or incomplete, except to the extent we have expressly agreed to verify accuracy and completeness as part of the services.

Tax Agents Services Act – This Act requires us to advise you of your rights and obligations where we are acting for you on taxation matters. In relation to the taxation services provided:

- You are subject to the self-assessment system in relation to any of your income tax returns. The Commissioner is entitled to rely on any statements made in your income tax returns. Where those statements are later found to be incorrect, the Commissioner may amend your income tax assessments and, in addition to any tax assessed, you may also be liable for penalties and interest charges.
- You have an obligation to keep proper records that will substantiate the taxation returns prepared and which will satisfy the substantiation requirements of the Income Tax Assessment Act. Failure to keep such records could result in claims being disallowed, additional tax being imposed, and the imposition of penalty or general interest charges.

- You are responsible for the accuracy and completeness of the particulars and information required to comply with the various taxation laws. We will use this information supplied in the preparation of your returns.
- You acknowledge that any advice provided by us during this engagement is only our opinion based on our understanding of the current law, administrative practice and our knowledge of your particular circumstances. Any such advice and the income tax returns themselves, will not necessarily be beyond challenge by the taxation authorities.
- Your rights as a taxpayer include:
 - The right to seek a private ruling;
 - The right to object to an assessment by the Commissioner;
 - The right to appeal against an adverse decision by the Commissioner.
- The Taxation Administration Act 1953 contains specific provisions that may provide you with “safe harbours” from administrative penalties for incorrect or late lodgement of returns if, amongst other things, you give us “all relevant taxation information” in a timely manner (the safe harbour provisions apply from 1 March 2010). Accordingly, it is to your advantage that all relevant information is disclosed to us as any failure by you to provide this information may affect your ability to rely on the “safe harbour” provisions and will be taken into account in determining the extent to which we have discharged our obligations to you.

Certain time limitations may exist for you to exercise these rights. Should you wish to exercise these rights at any time you should contact us so that we can provide you with the relevant time frames and to discuss any additional requirements which may exist.

Taxation Reform

It should be noted that the Australian tax system is in a continuing state of reform. Any reform of a tax system creates a degree of uncertainty, whether it be uncertainty as to the full extent of announced reforms, or uncertainty as to the meaning of new law that is enacted pending interpretation through judicial process. Whilst we will endeavour to bring areas of reform and uncertainty relevant to this engagement to your attention, it is not possible for us to guarantee that all potential reforms or uncertainties of possible relevance will be identified and communicated to you.

Our Fees

Our fees for the engagement specified in the engagement letter are as per the amounts agreed to.

We will endeavour to provide a fixed fee for larger assignments for your agreement in advance of us undertaking the work. However otherwise fees for any work outside the package fee agreement or if you do not wish to participate in a package fee agreement, will be billed as work progresses, and are based on the time required by the team member assigned to your work plus direct out of pocket expenses.

Fees do not include the annual ASIC or ATO lodgement fee, nor any other direct out-of-pocket expenses.

Our payment terms for any additional fees are 30 days.

Where we are retained on behalf of a company the director of that company instructs us jointly and severally in their capacity as director and personally, and shall hereby personally guarantee payment of our accounts on behalf of the company.

If we are required to provide information regarding you or the services to comply with a statutory obligation, court order or other compulsory process, you agree to pay the reasonable costs and expenses we incur in doing this. This includes time spent by professional staff and our reasonable legal costs. This clause does not apply to the extent a compulsory process relates to our alleged wrongdoing.

Any work outside that provided for under the sub-heading “Scope” will be billed separately and as that work progresses. Again, the fees for this work will be based on the time required by the individual assigned to your work plus direct out of pocket expenses.

The company and guarantor hereby charge all their right, title and interests in any records presently or hereafter held by Bentleys Newcastle Pty Ltd for the purposes of the performance of their obligations under this Agreement and hereby consent to a lien over such records.

How to Terminate Our Agreement

You may terminate this agreement in writing at any time. If you do so you agree to pay our charges and expenses incurred up to the time of termination

We will terminate our agreement if the relationship between us breaks down, such as you fail to pay the package fee, you fail to provide us with adequate instructions, or if you indicate to us that we have lost your confidence.

We shall give you at least seven (7) days' notice of our intention to terminate our agreement and of the grounds upon which the notice is based. You will be required to pay our charges for work done and for expenses incurred up to the date of termination.

Privacy Issues

The conduct of our engagement means that information acquired by us in the course of our work is subject to strict confidentiality requirements. Any information will not be disclosed by us to other parties except as required or allowed for by law, or with your express consent. Our files may, however, be subject to review as part of the quality control review program of The Institute of Chartered Accountants in Australia and New Zealand or the CPA Australia who monitor compliance with professional standards by its members. We advise you that by signing this letter you acknowledge that, if requested, our files relating to this engagement will be made available under these programs. Should this occur, we will advise you the same strict confidentiality requirements apply under these programs as apply to us as your accountant.

Please refer to our Privacy Policy for further details of privacy issues.

Referring to you and the services

We may wish to refer to you and the general nature of the services we have performed for you or a specific engagement or transaction on which we acted for you, when marketing our services, but agree to only do so with your prior consent and provided we do not disclose your confidential information.

Conflict of Interest

You are required to advise us if you become aware of any conflict of interest or potential conflict of interest. Generally, a conflict of interest is any event which may result in us becoming unable to remain objective in the performance of our services to you. Some examples of events which could give rise to a conflict of interest or potential conflict of interest during this engagement are changes to your business circumstances, events affecting your family (eg. death and/or marriage breakdown) or a legal action commencing against you.

Performing Services for others

Provided we do not disclose your confidential information, you agree that we may perform services for your competitors or other parties whose interest may conflict with yours.

Electronic communications

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 communication.

Electronic tools

We may develop or use electronic tools (eg spreadsheets, databases, software) in providing the services. We are not obliged to share these tools with you, unless they are specified as a deliverable in this agreement. If they are not specified as a deliverable, and we do share them with you, you agree that:

1. They remain our property,
2. We developed them solely for your use,
3. You use them at your risk
4. You may not provide them to a third party.

Outsourced services

Acceptance of our services in conjunction with this engagement document indicates your acceptance of the use of outsourced services. Where the outsourced service requires the disclosure of personal information to an overseas recipient a consequence of your consent is that Bentleys Newcastle Pty Limited will be required to take reasonable steps to ensure that the Australian Privacy Principles are complied with by the overseas recipients of the Personal Information.

Retaining Records

On completion of work, we may retain any papers to which you are entitled. However, we will keep these papers in our possession for no more than seven years, and on the undertaking that we have your authority to destroy the records five years after the financial year that they relate to. We are entitled to retain possession of any papers, documents and files pending payment in full of any outstanding charges and expenses.

In the course of our engagement we will prepare various working papers and notes consistent with our internal quality control system. These working papers remain the property of our firm and will be retained by us to support any future queries on work completed.

Our engagement will result in the production of documents of engagement including Income Tax Returns and Financial Statements. Ownership of these documents will vest in you. All other documents produced by us in respect of this engagement will remain property of the firm.

The firm has a policy of exploring a legal right of lien over any client documents in our possession in the event of a dispute.

Liability

Accountants Scheme

Our partners are members of either CPA Australia (CPA) or the Chartered Accountants of Australia and New Zealand (CAANZ) which have schemes approved under professional standards legislation in force in Australia. Our liability in connection with the services is limited in accordance with those CPA or CAANZ schemes and legislation providing for apportionment of liability also applies.

Liability cap where no scheme

Where our liability is not limited by a scheme, you agree that our liability for all claims connected directly or indirectly with the services is limited to an amount equal to 10 times the fees payable for the services, up to an overall maximum of \$10million.

Aggregate cap

Where more than one client is named in our engagement letter, the limits on our liability in the above clause must be allocated between them. We do not need to know how a limit is allocated and, if it is not, you agree not to dispute a limit on our liability on the basis that you have not agreed how it is to be allocated.

Consequential Loss

To the extent permitted by law we exclude all liability for :

1. Loss or corruption of data,
2. Loss of profit, goodwill, business opportunity or anticipated savings or benefits,
3. Indirect or consequential loss or damage.

No claims against employees

You agree not to bring any claims against any of our employees personally in connection with the services. This includes claims in negligence but excludes claims of fraud or dishonesty. This clause is for the benefit of our employees. You agree that each of them may rely on it as if they were party to the agreement.

Acknowledgments

If the above statements concerning the scope of our engagement, the responsibility we undertake, and the fee arrangements are satisfactory to you, please sign and return the attached copy of this letter to indicate that it is in accordance with your understanding of our discussions.

You acknowledge that you have read and understood this agreement and have received a copy of it.

You also acknowledge having had the opportunity to obtain independent advice concerning this agreement prior to signing it.

TAXATION, BUSINESS ADVISORY, AUDIT, SUPERANNUATION

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