



OFFEN ADVISORS LIMITED

Corporate Taxation Consultants

Standard Terms of Engagement

1. Introduction

Offen Advisors Limited (including its principals and employees) sets out below the terms and conditions of business, which, together with any Engagement Letter, will apply to all work we undertake for you.

2. Our Services

We will provide the Services and will use all reasonable commercial efforts to provide the Services in an efficient and timely manner, using the necessary skill and expertise to an appropriate professional standard. Unless otherwise agreed in writing, any timetables set will be for planning and management purposes only and will not be binding upon us.

3. Our Invoicing and Payment Terms

Unless otherwise agreed in writing, our fees will be based on time engaged with scale rates calculated taking into account a number of factors, including:

- time spent on the assignment by our principals and employees;
- the levels of skill, specialised knowledge and responsibility involved;
- the importance of the matter to you and the results achieved;
- the urgency and circumstances in which your matter is carried out;
- the value or amount of any property or money involved;
- the complexity of the matter and the difficulty or novelty of the issues involved;
- the number and importance of the documents prepared and considered; and
- the reasonable costs of running a practice.

Any fee estimate given will be a guide only and will not constitute a fixed price arrangement.

Standard hourly charge rates will be provided on request.

Invoices will be rendered on a monthly basis for time incurred within that month. In instances where your assignment has not been completed by month end, a progress invoice will be rendered.

Our fees are exclusive of general expenses such as reasonable travel, subsistence and document handling costs (photocopying, printing, facsimile and courier etc) incurred in connection with the Services.





These expenses will be charged on by way of either an administration disbursement or directly in relation to specific costs incurred by us.

Our fees and expenses are given exclusive of **GST** and we will be entitled to add GST to our fee and disbursement charges.

You agree to pay for the Services. Payment is due by the 20th day of the month following the month to which the invoice relates, unless otherwise agreed in writing prior.

We may charge interest on overdue amounts at the rate of 5% over the current 90 day bank bill rate. If your account remains unpaid and there is no satisfactory explanation for non-payment we may:

- start proceedings to recover the amount owed, plus default interest and any collection costs incurred; and/or
- do no further work for you, and we will not release your papers and files until all accounts are paid.

Conflict of Interest

We will advise you if we become aware of any potential conflict of interest, and we will work with you to find a suitable solution.

We will not be prevented or restricted by anything in this Agreement from providing services for any other clients at any time.

When acting for other clients, we will not use confidential information obtained from you.

Information

You will provide us promptly with such accurate and complete information reasonably required for the proper performance of the Services, including access to appropriate members of your staff, records, information technology, systems and premises.

We will be entitled to rely upon the accuracy of all information provided by you, or by others on your behalf, without independently verifying it.

You undertake that, if anything occurs after information is provided by you to us, to render such information untrue, unfair or misleading, you will promptly notify us, and, if required by us, take all necessary steps to correct any communication or document issued which contains, refers to or is based upon such information.

We often have to obtain and rely on external information or public records (eg, government agencies or registers) to carry out your instructions. This information may not always be accurate or complete. We do not accept responsibility and will not be liable for any direct or indirect damage or loss caused by errors or omissions in external information.

You must provide us with full details of any illegal or possible illegal act or information that may affect your financial reports or tax return.





Confidentiality

Both parties acknowledge that they may, in the course of the engagement acquire information that is proprietary or confidential to the other party. Both parties agree to hold such information in strict confidence, and not to divulge such information, except:

- as required by law or professional regulation;
- as is already or becomes public knowledge, otherwise than as a result of a breach, by the party disclosing or using that confidential information, of any provision of this Agreement;
- as authorised in writing by the other party;
- to the extent reasonably required by this agreement (and, without limiting the effect of this clause, a party may disclose confidential information only to those of its officers, employees or professional advisers, on a "need to know" basis, as is reasonably required for the implementation of this Agreement).

The conduct of any engagement will be in accordance with the standards, rules and ethical requirements of the New Zealand Institute of Chartered Accountants. Information obtained by us in the course of any engagement is subject to confidentiality requirements, in addition to our obligations under the Privacy Act 1993.

As members of the New Zealand Institute of Chartered Accountants, we are subject to and bound by the disciplinary procedures and rules of the Institute, and our work and files are subject to the practice review rules of the Institute under which compliance with professional standards by members is monitored. These procedures and rules require us to disclose to the Institute, its reviewers and its disciplinary bodies our files and work papers including client information. By allowing us to undertake any engagement (whether or not an engagement letter is signed by you), you acknowledge that, if requested, our files relating to any engagement will be made available to the Institute, its reviewers and its disciplinary bodies. The same ethical standards regarding confidentiality that we adhere to apply equally to the Institute's reviewers.

Our workpapers and client documents

You acknowledge that the workpapers we produce in the course of our work for you, which are not an integral part of the end product of that work, are our property.

Where reasonably possible we will:

- inform you if any other person seeks access to your workpapers; and
- seek your comment before granting access to any person unless we are compelled to do otherwise by law.

In certain circumstances the Practice Review Board of the New Zealand Institute of Chartered Accountants and the Inland Revenue Department may request access to information and workpapers and we may not be legally able to prevent such access.

Certain taxation advice documents and information held by Offen Advisors Limited on your account may be protected from disclosure to Inland Revenue under sections 20B to 20G of the Tax





Administration Act 1994. You authorise principals and staff at Offen Advisors Limited to act on your behalf for the purposes of these disclosure protection rules.

If we are provided with custody of any documents by you or on your behalf, including share registers or constitution documents, those documents will be retained during the course of our appointment (unless their earlier return is requested), at the end of which they will be returned to you unless separate arrangements have been made. We will be entitled to retain copies.

We reserve the right to exercise a lien over any documents and files belonging to you, which may be in our possession.

At the end of this engagement we will keep your file and documents for the minimum period stipulated by any relevant legislation. At the end of this period we may destroy your file and documents. All files and documents will be destroyed in a confidential manner.

Peripheral Tax Implications

Some of the matters on which we may be asked to advise you may have taxation implications for peripheral parties, such as directors, shareholder, employees or counter-parties. Unless advising on such peripheral tax implications is expressly included in the Services, we will not bear any liability to you or to any peripheral party in respect of those peripheral tax implications, and you indemnify us against any claim by any such peripheral party in this respect.

Ownership

We retain ownership of the copyright and all other intellectual property rights in the product of the Services, whether oral or tangible, and ownership of our working papers. You will acquire ownership of any end product of the Services on payment of our charges. Subject to our obligations of confidentiality, for the purposes of delivering Services to you or other clients, we will be entitled to use, develop or share with others any knowledge, experience, skills, methodologies, systems, spreadsheets, databases or know how gained through performing the Services without an obligation to account to you.

We may from time to time provide you with software, spreadsheets and other intellectual property for use with, or to assist with the provision of, the product of our Services. Any software, spreadsheets and other intellectual property provided by us to you is provided for your own use and must not be copied, distributed or used for any other purpose, We do not provide any warranties in relation to your use of the software, spreadsheets and other intellectual property provided and will not be liable for any damage or loss incurred by you as a result of your use of any software, spreadsheet and other intellectual property as contemplated by this clause.

Benefit of advice

Unless otherwise specifically agreed, any advice or opinion relating to the Services is provided solely for your benefit and may not be disclosed in any way, including any publication on any electronic media, to any other party and is not to be relied upon by any other party. We accept no liability to any third party who does obtain and rely on any advice or opinion relating to the Services.





During the supply of our Services, we may supply oral, draft or interim advice, reports or presentations but in such circumstances our written advice or final written report will take precedence. No reliance should be placed by you on any oral, draft or interim advice, reports or presentations. Where you wish to rely on oral advice or an oral presentation, you must inform us and we will provide documentary confirmation of the advice.

Any advice provided or work undertaken will be based on facts as conveyed and/or as otherwise understood at the time, as well as on relevant law, protocols, practices, promulgations and other such matters relevant to the advice as at that time. Subsequent changes to, or subsequent events affecting, such matters may render our advice invalid. We take no responsibility for updating our work or advice for any such subsequent changes or events.

Communication

During our performance of the Services our team may wish to send messages and documents electronically. You acknowledge that electronic communication carries with it the possibility of inadvertent misdirection or non-delivery of confidential material and unless you notify us in writing you consent to the use of electronic communication in the course of providing the Services.

Furthermore we do not accept responsibility and will not be liable for any damage or loss caused by an email that is intercepted, or has a virus or other defect nor will we be liable for any damage or loss arising as a result of any unauthorised copying, recording, reading or interference with that document after transmission, for any delay or non-delivery of any document and for any damage caused to your system or any files by the transmission.

We may, from time to time, communicate with you via electronic messages including sending you Commercial Electronic Messages (as that term is defined in the Unsolicited Electronic Messages Act 2007). You consent to us sending Commercial Electronic Messages to you.

Problem resolution

If at any time you would like to discuss with us how the Services can be improved or if you have a complaint about them, you are invited to telephone us to table your suggestion or concern.

In the event of a dispute, or where fees remain unpaid beyond the due date, we reserve the right to suspend provision of the Services until such time as the dispute is resolved or the fees are paid. Suspension of the Services will not affect your obligation to pay us for Services rendered to the date of suspension.

Limitation of liability

To the maximum extent permitted by law, you agree that our liability for any and all loss or damage suffered by the Client (in aggregate) (whether direct, indirect or special) in connection with our engagement will be limited to three times the amount of professional fees paid to us for the Services in aggregate and you agree to release us from all claims arising in connection with the Services to the extent that our liability in respect of such claims would exceed this amount. If the Services were





provided in respect of more than one financial year the fee on which the liability amount is based will be the fee paid in respect of the financial year in respect of which the act or omission occurred.

To the maximum extent permitted by law, you agree that with regard to any loss or damage suffered by you which is wholly or partly directly or indirectly attributable to negligence, fault or lack of care on your part or on the part of any other person (including advisers to you), we are not liable (in contract, tort or otherwise) for the loss or damage and any damages payable by us will be reduced to the amount which would be payable by us as if the legislation providing for apportionment of damages in cases of contributory negligence applied to a claim based on breach of contractual or other duty.

You agree that all claims against us, whether in contract, negligence or otherwise, must be formally commenced within two years after the party bringing the claim becomes aware (or ought reasonably to have become aware) of the fact which gave rise to the action and in any event no later than three years after any alleged breach of contract, negligence, or other cause of action arises.

Where this Agreement applies to more than one Client, the limitation of liability contained in the above paragraphs must be allocated among these Clients. Such allocation is a matter to be resolved by those Clients.

To the maximum extent permitted by law, we will have no liability for any statements, representations, guarantees, conditions or warranties (collectively referred to as "representations") arising from communications (oral or written) which are not expressly contained in this Agreement and all representations to exercise reasonable care or render our Services with due care and skill which may otherwise be implied by statute, common law or custom are expressly excluded.

Indemnities

To the maximum extent permitted by law, except in the case of fraud or dishonesty on our part, you agree to indemnify us and hold us harmless against any and all losses, claims, costs, expenses, actions, demands, damages, liabilities or any other proceedings, incurred by us in respect of any claim by a third party (whether in contract, tort, or otherwise) arising from any breach by you of your obligations under this Agreement.

To the maximum extent permitted by law, we will not be liable for any losses, claims, expenses, actions, demands, damages, liabilities or any other proceedings arising out of reliance on any information provided by you or any of your representatives which is false, misleading or incomplete. You agree to indemnify us and hold us harmless from any such liabilities we may have to you or any third party as a result of reliance by us on any information provided by you or any of your representatives, which is false, misleading or incomplete.

The indemnities in this clause will include all costs incurred by us in regard to such liability or claim, including legal costs on a solicitor-client basis, and the costs of any expert engaged by us to advise us or assist us in dealing with the claim or liability in any way.

You agree to look only to Offen Advisors Limited or the insurance maintained by us to satisfy our obligations or liabilities to you under this Agreement or otherwise. None of our directors, officers,





principals or employees will be liable for our obligations to you. You will not commence any action or proceeding against any such persons for the purposes of enforcing your rights under this Agreement. This clause is intended to be for the benefit of, and enforceable by, those persons described in this clause for the purposes of the Contracts (Privity) Act 1982.

Privacy

We will comply with the Privacy Act 1993 when collecting, holding or disclosing personal and sensitive information concerning you (if you are an individual), your shareholders, members, customers, employees and other individuals with whom you have dealings (**Stakeholders**). Under the Privacy Act 1993, we must follow the information privacy principles when we collect, use and disclose information about Stakeholders (**personal information**).

If your Stakeholders have not been made aware of the possible collection, holding, use or disclosure of their personal and sensitive information by us as part of this engagement, you agree to inform us so that, should this be necessary, we may take action to raise the awareness of your Stakeholders.

If we do not collect this personal information, we may not be able to carry out your instructions. In most cases anyone can request access to the personal information we hold about them.

Circumstances beyond your or our control

Neither of us will be in breach of our contractual obligations nor will either of us incur any liability to the other if we or you are unable to comply with this Agreement as a result of any cause beyond our or your reasonable control. In the event of any such occurrence affecting one of us, that party must notify the other as soon as reasonably practicable, who will have the option of immediately suspending or terminating this Agreement.

Governing law and jurisdiction

This Agreement is governed by New Zealand law. Both parties agree to irrevocably submit any disputes arising under this Agreement to the exclusive jurisdiction of the Courts of New Zealand.

Variation

No variation of this Agreement will be valid unless confirmed in writing by authorised signatories of both parties on or after the date of signature of the Engagement Letter.

Term and Termination

The Agreement will apply from the commencement date stated in the Engagement Letter or, where no commencement date is stated, from the date on which our engagement for you commenced..

If either party commits a breach of this Agreement and fails to remedy the breach within 14 days of receiving written notice calling for the breach to be remedied, the party giving the notice may cancel this Agreement on written notice, without prejudice to any other right it may have in the circumstances. In any case this Agreement may be terminated by either party on written notice to





the other party. You must pay our fees for work done and for other charges incurred up to the time of termination.

Entire agreement

These Terms record our entire understanding and agreement relating to the matters dealt with in them. The Agreement supersedes all previous understandings or agreements (whether written, oral or both) between us relating to such matters.

No Assignment

You may not assign or transfer any of your rights or obligations under this Agreement.

Partial invalidity

If any provision of this Agreement is or becomes invalid or unenforceable, that provision will be deemed deleted from this Agreement. The invalidity or unenforceability of that provision will not affect the other provisions of this Agreement, all of which will remain in full force and effect to the extent permitted by law, subject to any modifications made necessary by the deletion of the invalid or unenforceable provision.

Definitions

Agreement means these Terms of Engagement along with any Engagement Letter.

Client means you and all other entities you instruct us to act for under this Agreement.

Engagement Letter means an engagement letter, email, facsimile or other communication attesting our engagement to provide professional services.

Services means the taxation and/or accounting services engaged to provide.

Stakeholder means you, your shareholders, members, customers, employees and others with whom you have dealings.

