

SHORT FORM MODEL CONDITIONS OF ENGAGEMENT

- 1 The Consultant shall perform the Services as described in the attached documents. The Consultant's liability under the Consumer Guarantees Act 1993 shall, where it is allowed, be excluded or if not able to be excluded, shall only apply to the minimum extent required by the Consumer Guarantees Act 1993.
- 2 In providing the Services the Consultant shall exercise the degree of skill, care and diligence normally expected of a competent professional, subject to any financial, physical, time or other restraints imposed by the Client or as limited by the nature of the project.
- 3 The Client shall provide to the Consultant, free of cost, as soon as practicable following any request for information, all information in his or her power to obtain which may pertain to the Services. The Consultant shall not, without the Client's prior consent, use information provided by the Client for purposes unrelated to the Services. In providing the information to the Consultant, the Client shall ensure compliance with the Copyright Act 1994 and shall identify any proprietary rights that any other person may have in any information provided.
- 4 The Consultant shall be entitled to charge the Client fees, which shall be fair and reasonable in respect of the Services rendered. These fees shall be based on the degree of responsibility and skill involved and the time necessary to undertake or complete any work subject to a premium in respect of urgency. The Consultant reserves the right to render interim accounts from time to time in its discretion. The Client shall pay the Consultant for the Services the amount of fees and expenses at the times and in the manner set out in the attached documents. Where this Agreement has been entered by an Agent (or a person purporting to act as Agent) on behalf of the Client, the Agent and Client shall be jointly and severally liable for payment of all accounts due to the Consultant under this Agreement.
- 5 All amounts payable by the Client shall be paid within or at the time specified by this agreement. Late payment shall constitute a default and the Client shall pay default interest on overdue amounts from four weeks from the date payment falls due to the date of payment at the rate of 15% per annum. The client shall also be liable to the Consultant for any costs incurred in recovering payment from the Client, including debt collection fees and solicitor client costs.
- 6 The Client authorises the Consultant to collect, retain and use personal information about the Client, including the information contained in this Agreement, for the purposes of assessing the Client's creditworthiness, administering the Consultant's rights against the client or marketing any services provided by the Consultant.
- 7 Where services are carried out on a time charge basis, the Consultant may purchase such incidental goods and/or Services as are reasonably required for the Consultant to perform the Services. The cost of obtaining such incidental goods and/or Services shall be payable by the Client. The Consultant shall maintain records which clearly identify time and expenses incurred.
- 8 The liability of the Consultant and its employees, contractors or agents to the Client in respect of his or her Services for the project shall be limited to the lesser of five times the value of the fees (exclusive of GST and disbursements) or the sum of \$100,000.00. The Consultant acknowledges that the Consultant currently holds a policy of Professional Indemnity Insurance for the greater amount of \$NZ100,000 or five times the value of the fees (exclusive of GST and disbursements). The Consultant undertakes to take all reasonable endeavours to maintain a similar policy of insurance for six years after the completion of the services.
- 9 Neither the Client nor the Consultant shall be liable for any loss or damage resulting from any occurrence unless a claim is formally made on him or her by the other within six years from completion of the Services.
- 10 The Consultant and its employees, contractors or agents shall only be liable to the client, either in contract, tort or otherwise for direct loss or damage suffered by the Client as the result of a breach by the Consultant of his or her obligations under this Agreement and shall not be liable under any circumstances for indirect or consequential loss, such as loss of profit or losses suffered by third parties.
- 11 The Client may order variations to the Services in writing or may request the Consultant to submit proposals for variation to the Services. Where the client orders variations by telephone, these shall be confirmed by the Consultant in writing. The Consultant shall be entitled to charge an additional fee for any such variations on a time/cost basis.
- 12 The Consultant shall retain copyright of all intellectual property prepared by the Consultant. The Client shall be entitled to use or copy the Consultant's intellectual property for the Works and the purpose for which they are intended. The ownership of data and factual information collected by the Consultant and paid for by the Client shall, after payment by the Client, lie with the Client. The Client may reproduce drawings, specifications and other documents in which the Consultant has copyright, as reasonably required in connection with the project but not otherwise. The Client shall have no right to use any of these documents where any or all of the fees and expenses payable to the Consultant have not been paid in accordance with this Agreement.
- 13 The Consultant has not and will not during the term of this Agreement or at any time after it, assume any obligation as the Client's Agent or otherwise which may be imposed upon the Client from time to time pursuant to the Health and Safety in Employment Act 1992 ("the Act") arising out of the engagement. The Consultant and the Client agree that, for the purposes of the Act, the Consultant will not be the person who controls the place of work in terms of the Act.
- 14 The Client may suspend all or part of the Services or terminate the Agreement by written notice to the Consultant who shall immediately make arrangements to stop the Services and minimise further expenditure. Suspension or termination shall not prejudice or affect the accrued rights or claims and liabilities of the parties, and the Consultant shall be entitled to charge a fee for the Services performed to date.
- 15 This Agreement is governed by the New Zealand law, the New Zealand Courts have jurisdiction in respect of this Agreement, and all amounts are payable in New Zealand dollars.