



TERMS OF ENGAGEMENT

- 1. How these Terms Apply** These Terms of Engagement are to be read together with the Scope of Services listed in any letter of engagement or services proposal document (including where contained or embedded in any online client onboarding software), any invoice payment terms on an Invoice, and any special terms stated in any of the above.
- 2. Acceptance of this Contract** The Client is taken to have exclusively accepted and is immediately bound, jointly and severally (where there is more than one Client), by these terms of engagement when it accepts a letter of engagement via any one or more of the following methods:
 - a. from any third-party software by any acceptance method including, but not limited to, e-signing or any other electronic acceptance method; and/or
 - b. by email confirmation; and/or
 - c. by paying any fees to the Advisor; and/or
 - d. by accepting Services from the Advisor after the date of issuance of the Letter of Engagement; and/or
 - e. by the issue of a purchase order to the Advisor.
- 3. Parties to the Contract.** This Contract is between **MY TWO CENTS LIMITED (Company Number 6258057)** (the **Advisor**) and the named Client/s in the accompanying Letter of Engagement.

DEFINITIONS

- 4.** The following words and expressions shall have the meanings set out below:

Advisor means the natural or incorporated person providing the Services and includes their permitted assigns, transferees, representatives, contractors.

Advisory Materials means materials (including reports, data, framework, template, methodology or process) supplied or developed by the Advisor (or its contractors or personnel) in connection with the Services.

AML Requirements means the requirements to meet the Anti-Money Laundering and Countering Financing of Terrorism Act 2009.

Business Day means a day on which banks are ordinarily open and excludes a Saturday, Sunday or public holiday in New Zealand. Any other reference to a 'day' shall mean a calendar day.

Confidential Information means all information which is written, verbal or electronic that is disclosed by either of the Parties to the other. It includes information that is stated as being 'confidential', 'in confidence', 'restricted' or 'commercial in confidence', and information that is "Personal Information" (as such term is defined by the Privacy Act 2020).

Common Reporting Standard means the standard for automatic exchange of financial account information developed by the Organization for Economic Cooperation and Development.

Compliance and Taxation Monthly Plan means an instalment plan to pay for the total fees for annual compliance and taxation services in monthly instalments.

Contract means the following documents which together form the contract for services between the Client and the Advisor:

- a. a letter of engagement; and
- b. these terms of engagement; and
- c. any variation to the scope of services

Client means the individual or incorporated entity, charity, incorporated society, trust or organisation named in a Letter of Engagement and includes any personnel, employees, contractors, agents, subcontractors and successors.

Disbursements means any disbursements incurred by the Advisor for software subscriptions, filing fees, registration fees, travel or any other disbursement or expense otherwise agreed to form part of the Services.

Due Date means the date stated on an Invoice for payment of the applicable fees, costs and expenses stated in the Invoice.

Good Industry Practice means the standard of practice generally expected from an experienced, reasonable, and prudent contractor or service provider operating in the Advisor's industry in the same or similar circumstances.

Intellectual Property Rights means all intellectual property rights whether conferred by statute, at



common law or in equity, including, but not limited to, copyright, trademarks, designs and/or patents.

Invoice means a statement of the amount payable for goods or services supplied or to be supplied by the Advisor to the Client.

Letter of Engagement means a letter issued by the Advisor to the Client (including to avoid doubt where such letter is issued by email, attached or contained in any client onboarding or invoicing software, attached or linked to any services proposal or quote or delivered by hand) which sets out the scope of services, pricing and fee information together with any ancillary information relating to the obligations of the Client and/or the Advisor. This includes a variation to a letter of engagement.

New Intellectual Property Rights means Intellectual Property Rights developed under this Contract or as part of the performance of the Services.

Parties means the parties to this Contract and **Party** means either one of them.

Personnel means all individuals engaged by either Party in relation to this Contract or the delivery of Services and includes, but is not limited to, its directors, employees, subcontractors, or agents.

Pre-existing Intellectual Property Rights means Intellectual Property Rights developed before the date of, or independently from this Contract.

Privacy Act means the Privacy Act 2020 and includes any codes or regulations issued under that Act.

Privacy Breach means any:

- a. unauthorised or accidental access to or use of, or disclosure, alteration, loss, or destruction of any "Personal Information" (as such term is defined by the Privacy Act); and/or
- b. any action that prevents the Client from accessing "Personal Information" (as such term is defined by the Privacy Act) on either a temporary or permanent basis whether or not caused by a person inside or outside of the Advisor or attributable in whole or in part to any action by the Advisor.

Records means any information or document about sales, income, and expenses, assets and liabilities of the Client (business or personal as applicable) and includes any 'record' as such term is defined in s75 of the Goods

and Services Tax Act 1985. To avoid doubt this includes physical paper, electronic or digital copies.

SCOPE OF SERVICES

5. **Services** The Letter of Engagement accompanying these terms of engagement detail the specific scope of services that the Advisor is performed to engage. These include, but are not limited to, the following:
 - a. Bookkeeping services; and/or
 - b. Accounting, Taxation and Compliance services; and/or
 - c. Business or Software administrative or implementation services; and/or
 - d. Training Services; and/or
 - e. Any other service agreed between the Advisor and the Client as documented in a service proposal or Letter of Engagement.
6. **Scope Variations** The Advisor will confirm any changes to the Services in writing via email. These terms of engagement shall apply to any scope increases, alterations or changes.
7. **New Letter of Engagement** The Advisor reserves the right to require a new Letter of Engagement and revise the scope of services where there is a change in control of the Client, a restructure of its corporate status, a significant change to the operations of the Client (the definition of 'change' being determined by the Advisor in its sole discretion).

TERM

8. **Term** This Contract is for the duration of the Services and shall continue for the period that the Client continues to accept the performance of the Services until otherwise terminated by either Party in accordance with this Contract.

FEES

9. **Fees** In consideration for its provision of the Services, the Client will pay to the Advisor the fees set out in the applicable Letter of Engagement.
10. **Compliance and Taxation Monthly Instalment Plan** Where the Client has agreed to pay for annual Compliance and Taxation Services in instalments via a monthly payment, the following terms shall apply:

- a. **Services** Any Services delivered under a Compliance and Taxation Monthly Plan will be limited to delivery of specific activities to perform the Client's compliance and taxation services; and
 - b. **Services are Incremental** The Client accepts and acknowledges that services are performed throughout the tax year on an incremental basis to compile a compliant tax file in readiness for the end of the financial year; and
 - c. **Instalments Pro Rated** The Client acknowledges that the Compliance and Taxation services are a fixed fee that is being paid for via an instalment plan and where services are commenced part way through a tax year, it may be charged for the full year on a pro-rated basis to cover the Advisor's costs and expenses to bring the Client's tax and compliance records up-to-date (including handling and migrating content from previous advisors); and
 - d. **Third Party Fee Funder Additional Fees and Charges** Where the Client elects to pay for Annual Compliance and Taxation services via an instalment plan, it accepts and acknowledges that the Advisor offers this payment option via its nominated third-party fee funder. **This fee funder shall apply additional fees and charges for instalment plan management.** These fees are detailed in the Letter of Engagement; and
 - e. **Renewal of Compliance and Taxation Monthly Plan** Prior to the commencement of the next tax year, the Advisor shall offer the Client a renewal of the Compliance and Taxation Monthly Plan at the applicable rate for the new tax year at least **thirty (30) calendar days' notice prior to any renewal date or earlier by mutual agreement;** and
 - f. **Cancellation of Compliance and Taxation Monthly Plan** The Client may cancel the Compliance and Taxation Monthly Plan at any time during the tax year by emailing us with **at least thirty (30) calendar days' notice of intention to cancel.** The Client acknowledges that early termination fees shall apply to cover the costs and expenses for the incremental services that have been performed up to and including the date of termination and to cover our reasonable costs to finalise outstanding actions on the existing tax file. The early termination fees are as published in the Letter of Engagement; and
 - g. **Default of Instalment Payments** Where an instalment is not paid when it becomes due and payable, or a recurring payment method is rejected or fails, the Advisor reserves its rights to pause or suspend the applicable Compliance and Taxation services until such arrears have been paid; and
 - h. **Out of Scope Services** The Letter of Engagement will list the inclusions and exclusions for the Compliance and Taxation Services. The Client agrees and accepts that any work or Services requested which are not listed as an 'inclusion' in the description of Compliance and Taxation services is out-of-scope for the purposes of the monthly instalment fee and will be invoiced at the Advisor's applicable standard rates for the out-of-scope service or subject to a quote.
- 11. Monthly Fees for Bookkeeping Services** Where the Client and the Advisor have agreed to a specified number of hours for the performance of agreed bookkeeping Services at a monthly fee, the following terms shall apply:
- a. **Hours Cap** The Advisor will invoice the Client for a specific number of hours estimated to perform the agreed activities described in the Services Proposal; and
 - b. **Fee Reviews** The Advisor will review the hours required to perform the services at its discretion to assess if a higher number of hours is required to perform the scope of services; and
 - c. **Hours Increases** Where the Advisor determines (acting reasonably) that the actual hours to perform the Client services is higher than the initial estimated hours or the hours assessed at a previous review date, it shall notify the Client via email of the increased hours required to be purchased on a monthly basis, together with the increased monthly fee for the variation.
 - d. **Out of Scope Services** Where the Client requests out-of-scope services, the Advisor and the Client shall agree if such out-of-scope services shall be deducted from the agreed monthly hours cap. If not otherwise agreed, all out-of-scope services shall be charged to the Client at a quoted price or at the Advisor's current hourly rate at the next Invoice date.
- 12. Software Subscription Fees** The Client agrees and acknowledges that all software fees and subscription

charges shall be added to invoices as a disbursement and any monthly fee for hours only is not inclusive of such fees, costs or expenses.

- 13. Advance Fees** The Advisor may request fees in advance on account prior to commencement of certain Services.
- 14. One Off Fees** The Advisor reserves the right to apply one-off fees for certain activities required in connection with the Services. These include, but are not limited to:
 - a. **Onboarding fees** to cover the reasonable costs and expenses to onboard the Client; and
 - b. **Alignment fees** where the Client engages the Advisor for Services part way through a financial year; and
 - c. **AML Requirements** to cover the compliance costs to meet these statutory obligations; and
 - d. Any other one-off fee as agreed with the Client in the Letter of Engagement.
- 15. Urgent Filing Fees** The Advisor reserves the right to apply one-off fees for urgent filing requests, at the applicable rate as at the date of the request.
- 16. Fees Funding Arrangements** Where the Client enters into a fee funding arrangement with a third-party fee funder, it enters into a separate contract with the applicable fee funder on its terms and conditions. A charge or additional service fees applied by the fee funder shall be payable directly to the fee funder and are in addition to the Advisor's instalment fees for the applicable Service. **Where the Client defaults on any separate contract for payment with a fee funder, the Client shall remain liable for all outstanding fees for the Services for which the fee funding was arranged.**
- 17. Disbursements** The Client will reimburse the Advisor for all Disbursements reasonably incurred by the Advisor in performing the Services.

ADVISOR'S OBLIGATIONS

- 18. Standards** The Advisor shall supply the Services with due care, skill and diligence and in accordance with Good Industry Practice and any applicable code of ethics to which the Advisor is bound in connection with its professional accreditations.
- 19. Timeliness** The Services shall be performed on time except where a delay is caused by the Client.

- 20. Conflicts of Interest** The Advisor will inform the Client if it becomes aware of any conflict of interest in its relationship with the Client (including between the various persons engaged for Services under these terms) or in its relationship with the Client and another client. Where conflicts are identified which cannot be managed in a way that protects the Client's interests or the Client does not consent to the way in which the Advisor proposes to manage the conflict then the Advisor may be unable to provide further Services to some or all the persons to whom these terms of engagement apply. If this arises, the Advisor will inform the Client promptly. The Advisor may act for other clients whose interests are not the same as or are averse to the Client, subject to the obligations of conflicts of interest referred to above and the confidentiality obligations contained in these terms.

ADVISOR'S EXCLUSIONS AND DISCLAIMERS

- 21. Limitations and Exclusions** The following shall apply as the context requires (each as applicable to the relevant service):
 - a. **Bookkeeping Services** All and any services relating to bookkeeping are limited to the collection, classification and summary of financial information the Client supplies to the Advisor; and/or
 - b. **Accounting Records** The Advisor accepts no responsibility for the accuracy and completeness of the accounting records and other information supplied by the Client as to its reliability, accuracy and completeness of the financial information compiled on the basis of those records and information; and/or
 - c. **Accounting Policies** The Advisor accepts no responsibility for the maintenance of adequate accounting records, an adequate internal control structure and the selection and application of appropriate accounting policies within the Client's organisation. The Client is solely responsible to users of the financial information the Advisor compiles; and/or
 - d. **Irregularities** The Services exclude the investigation or reporting of any discovery of internal control weaknesses, errors, illegal acts or other irregularities, including without limitation, fraud, or non-compliance with laws and regulations.

- e. **Opinions and Advice** Where the Advisor offers or supplies any advice or opinion of any nature relating to the business, operations or financial circumstances of the Client, either verbally and/or in writing, it is accepted at the sole risk of the Client. The Advisor does not hold itself out as or represent itself as a supplier of accounting, legal and/or financial advice. Any opinion or advice received from the Advisor should be interpreted as a personal view only and should be confirmed by the appropriate professional.

CLIENT OBLIGATIONS

- 22. Authority to Act** The Client must sign all documentation required to provide the Advisor with authority to act on behalf of the Client.
- 23. Timely and Accurate Information** The Client must ensure that it provides information required by the Advisor in a timely and accurate manner.
- 24. Maintenance of Records** As required by law, the Client is responsible for the maintenance of adequate record keeping for up to 7 years. The Advisor will not be liable for any failure to supply records to the Inland Revenue Department or any other regulatory department within this 7-year period.
- 25. Adequate Accounting System** The Client is responsible for maintaining an adequate accounting system (if required) and internal controls around such system.
- 26. Review and Approval of GST Returns or Reports** The Client shall be required to review and approve all and any final returns or reports for reasonableness and correctness, and will need to understand the importance and risks of signing GST returns or other statutory compliance engagements as being true and correct statutory records.
- 27. Decisions** The Client must make decisions and give approvals reasonably required by the Advisor to perform the Services, within the specified timeframes. **The Client acknowledges that failure to provide necessary approvals may result in fines or penalties being applied by the Inland Revenue Department. Such fines or penalties shall be the sole responsibility of the Client.**
- 28. Payments** The Client is responsible for the payment of any taxes, fines, penalties, payroll or other payment obligations. Where the Advisor has access

to bank accounts or manages payroll as part of the scope of Services, the Client accepts and acknowledges it has the primary responsibility to ensure such payments are made.

- 29. Scope Changes** The Client must notify the Advisor of any scope changes to the Services and/or change to the Client requirements as soon as practicably reasonable.

DOCUMENTS AND RECORDS

- 30. Original Documents** All original documents obtained from the Client arising from the engagement shall remain the property of the Client. The Advisor may make a reasonable number of copies of the original documents for its records (including electronic copies, scans or reproductions).
- 31. Reports** Any reports (including forecasts or projections) produced by the Advisor shall not be used or relied upon for any purpose other than for which it was specifically prepared. The Advisor accepts no responsibility or liability for any reliance on any report, forecast or projection by any other person or entity (incorporated or unincorporated) other than the Client.
- 32. Other Documents** All other documents produced by the Advisor (such as workpapers) in respect of this engagement will remain the Advisor's property, subject to any statutory obligations.

INVOICING AND PAYMENT

- 33. Invoice Frequency** The Advisor shall invoice the Client at the agreed frequency, this being any one of the following:
- on a monthly basis in arrears for actual hours incurred; or
 - on completion of Services; or
 - at another frequency agreed.
- 34. Time and Method for Payment** All amounts specified in an Invoice will require payment on or before the specified Due Date (**Amounts Owing**). The Advisor shall issue Invoices by email or e-invoicing (as agreed with the Client).
- 35. No Set Off or Deduction** Amounts Owing which are due and payable must be made without set-off or deduction of any kind. The Clients agrees it will not

be entitled to withhold payment in respect of any undisputed amount.

- 36. Disputed Invoices** If the Client receives an Invoice and it considers that it owes the Advisor a lesser amount, it must inform the Advisor within **three (3) Business Days** of receiving an Invoice.
- 37. Non-Payment of Amounts Owed** If the Client does not pay an Amount Owed by the Due Date stated on an Invoice and it has not commenced any invoice dispute, the amount of the Invoice becomes an Overdue Amount Owed.
- 38. Default Interest** If an Overdue Amount Owed remains unpaid for **five (5) Business Days** past the Due Date, **the Advisor shall have the right to apply default interest at the rate stated in the applicable Invoice and where no amount is stated, at a rate of 5%.** Default interest shall be calculated daily and compound monthly at that rate if the Advisor elects to do this. This applies before and after any judgment (if applicable).
- 39. Debt Collection or Recovery Costs** If an Overdue Amount Owed remains unpaid for **fourteen (14) Business Days** or more from the Due Date, the Advisor reserves its rights to engage the services of a debt collection agency or solicitor to take proceedings to recover the Overdue Amount Owed. The Client will be liable for the costs incurred by the Advisor in the collection of any unpaid amounts, including but not limited to, legal costs (on a client-solicitor basis), debt collection fees and internal administration fees.
- 40. Internal Administration Fees** In the event the Advisor is obliged to perform any additional actions to recover any monies owed by the Client, it reserves the right to apply reasonable administrative fees for phone calls, texts, emails, and in-person visits to follow up and recover any Overdue Amount Owed in addition to any costs or expenses listed in the clause above.

SUSPENSION AND TERMINATION OF SERVICES

- 41. Suspension of Services for Overdue Amounts Owed** If there is an Overdue Amount Owed and such default continues for **ten (10) Business Days or such other timeframe advised in a Services Proposal** from the Due Date, the Advisor shall be entitled to suspend the Services without notice until the arrears have been cleared.

- 42. Termination of Services** Without prejudice to a Party's other remedies at law, each Party has the right to terminate the Services by giving the other **thirty (30) calendar days' written notice.** This includes any part of the Services that remain unfulfilled at the notification date.
- 43. Termination for Breach or Insolvency** Neither Party shall be liable to the other Party for any delay, loss or damage suffered by it due to the exercise of its rights under this clause, if one or more of the circumstances listed in the following two clauses applies.
- breach** the Services may be terminated by either Party where the other Party is in breach of this Contract and such breach is not remediable or is remediable, but continues and remains unremedied after the expiry of the notice period set out in a default notice, which must be given by the non-defaulting party to the defaulting party, and provide the defaulting party with a reasonable time period to remedy the breach.
 - insolvency** the other Party becomes insolvent or bankrupt, convenes a meeting with its creditors or make an assignment for the benefit of its creditors or a receiver, manager, or liquidator (provisional or otherwise) or similar person is appointed in respect of the Party, its business or its assets.
- 44. Amounts Owed up to Termination** The Client must pay the fees up to the date of termination **and to avoid doubt this shall include any early termination fees payable in connection with the termination of a Compliance and Taxation Monthly Plan prior to the end of the financial year for which the instalment payments on that plan apply.**
- 45. Accrued Rights** The termination or expiry of this Contract does not affect any rights of a Party which arose prior to the applicable termination date.

LIABILITY

- 46. Advisor Liability Cap** To the extent permitted by law, the aggregate liability of the Advisor to the Client, whether in contract, tort (including negligence) or otherwise, will be limited to \$500.
- 47. No Liability for Consequential Loss** The Advisor shall not be liable for any indirect, consequential, special or economic loss, cost liability, damage or expenses howsoever arising.

- 48. Reduction of Liability** The Advisor's liability is reduced proportionately to the extent that any such loss or damage was caused or contributed to by any negligent act, omission or default of the Client.

INTELLECTUAL PROPERTY

- 49. Ownership of Pre-existing Intellectual Property Rights** Pre-existing Intellectual Property Rights remain the property of their owner. Nothing in or done in connection with this Contract will affect the ownership of any Intellectual Property Rights that arise, or have arisen, independently of the activities of either party in connection with this Contract.

- 50. New Intellectual Property Rights in Advisory Materials** Where the Client has commissioned Advisory Materials to be solely created for the Client's internal use, the clause below shall apply, providing always that the Advisor shall retain ownership of all New Intellectual Property Rights in any framework, template, methodology or process associated with such Advisory Materials.

- 51. New Intellectual Property Rights** All and any New Intellectual Property Rights created in the Advisory Materials become the property of the Client when they are created, and the Advisor agrees to do all things necessary to give effect to this clause.

- 52. Licence** The Client may use, copy and adapt any Advisory Materials for any purpose required by it and the Advisor grants to the Client a perpetual, exclusive and royalty-free licence to use, for its organisational purposes, all Intellectual Property Rights in the Advisory Materials that are not owned by the Client to receive the full benefit of the Services, and use, copy or modify the Advisory Materials.

- 53. Training and Coaching Materials** The Client is expressly prohibited from sharing the Advisory Materials or our training and coaching information content, in any way that competes with our business.

- 54. Advisor Warranties** The Advisor warrants that it is legally entitled to grant the licence in the clause above, and the Client's use of anything provided by the Advisor and incorporated in the Services, for the purposes communicated to, or that are or ought to be known by, the Advisor, will not infringe the rights, including Intellectual Property Rights, of any third party.

CONFIDENTIAL INFORMATION

- 55. Use of Confidential Information** Each Party must keep confidential all Confidential Information, however nothing in these terms prevents a Party from disclosing Confidential Information:

- a. in circumstances expressly provided for in this Contract; and/or
- b. if disclosure is required by law (but only to the extent required); and/or
- c. if disclosure is required laws and regulations (but only to the extent required) including, but not limited to, disclosures required under any AML Requirements (including to a third-party auditor) and as required by the Common Reporting Standard; and/or
- d. professional obligations including, but not limited to the provisions of the ATAINZ (Accountants and Tax Agents Institute of New Zealand) Code of Ethics; and/or
- e. if the information has already become public, other than through a breach of the obligation of confidentiality by one of the Parties; and/or
- f. if disclosure is reasonably required to enable a party to perform its obligations or enforce its rights under this Contract.

- 56. Disclosure of Confidential Information** The Advisor may disclose Confidential Information to a Related Company and their Personnel on a 'need to know' basis, provided that person is under a duty to keep the Confidential Information confidential in accordance with this Contract.

- 57. Software System Access and Confidentiality** Where the Advisor has access to a software system to retrieve, enter or handle data for the performance of the Services, all such information accessed, viewed, downloaded or stored shall be treated as Confidential Information of the Client.

- 58. Security** The Advisor will put in place and maintain adequate security measures to safeguard the Client's Confidential Information from unauthorised access or use by third parties. The Advisor shall:

- a. notify the Client if it becomes aware of any suspected or actual unauthorised use, copying

or disclosure of the Client's Confidential Information; and

- b. comply with any reasonable direction of the Client in relation to any suspected or actual breach of the obligations in this clause as the Client reasonably requests.

59. Obligation to Inform Personnel The Advisor will ensure that its Personnel are aware of the confidentiality obligations in this Contract.

PRIVACY

60. Collection of Personal Information The Advisor may collect, use, retain and disclose "personal information" (as defined in Part 1, section 7 of the Privacy Act 2020) about an individual for the following purposes:

- a. performing its obligations under this Contract (including for payroll services); and/or
- b. direct marketing purposes including by email and other electronic means; and/or
- c. using the services of credit reporting and debt collection agencies and the Client on behalf of its directors, consents to the Advisor disclosing personal information (including any information about default and repayment history) to a credit reporter, who may hold that information and use it to provide its credit reporting services; and
- d. the use or transfer of personal information to a Related Company (as such term is defined by Companies Act 1993) in connection with the performance of our obligations or exercise of our rights under this Contract.

The clause above is authority and consent from the Client in accordance with sections in Part 3, Part 7, subpart 1 and all other relevant sections in the Privacy Act 2020.

61. Access to Personal Information Where the Client is an individual, the Client shall have the right under sections in Part 4, subpart 1 and Part 4, subpart 2 of the Privacy Act 2020 to access, and request correction of, any of its personal information held by the Advisor.

62. Warranty Relating to Personal Information of Third Parties Where the Client provides the Advisor with personal information about a third-party (including its Personnel), the Client warrants that it is authorised to do so by the relevant individual.

63. Protection of Personal Information Where the Advisor has access to Personal Information under or in connection with this Contract, the Advisor must:

- a. only use, access, store, process or transmit that Personal Information to the extent necessary to perform the Services or in connection with recovery of debts or unpaid fees; and
- b. ensure that the Personal Information is protected against loss, access, use, modification, or disclosure that is not authorised by the Client; and
- c. provide all information and assistance reasonably required by the Client to comply with its obligations under the Privacy Act in relation to this Contract; and
- d. comply with the Privacy Act and not do anything under this Contract that would cause the Client to breach the Privacy Act.

64. Privacy Breaches If the Advisor becomes aware of any privacy breach in relation to this Contract it will notify the Client as soon as possible and take all reasonable steps:

- a. to identify the person or persons affected; and
- b. actions required by the Client to undertake its own investigation; and
- c. report the breach to the office of the privacy commissioner if required by law; and
- d. stop, and/or mitigate the impact of, any privacy breach and prevent its reoccurrence; and
- e. the Advisor shall not notify any person affected by the privacy breach without the prior written approval of the Client.

DISPUTE RESOLUTION

65. Details of the Dispute must be Supplied If either Party considers that a dispute has arisen in relation to any matter governed by this Contract, that party

must give the other party written notice (via email) outlining the basis of the dispute (**Dispute Notice**).

66. Dispute must be Discussed The Parties must then meet (in person or virtually or by phone) to resolve, in which case both Parties will promptly attempt to resolve the dispute by consultation at the lowest practicable level of escalation.

67. Escalation of Dispute If the dispute is not resolved by discussion, meeting and/or other informal means within **ten (10) Business Days** of the date of the Dispute Notice the Parties may agree to submit the dispute to mediation.

68. Mediation If a Dispute is referred to mediation, the mediation will be conducted by:

- a. a single mediator agreed by the Parties or, failing agreement, on the terms of the Resolution Institute Mediation Rules; and
- b. at a fee to be agreed by the Parties or if they cannot agree, at a fee determined by the Resolution Institute.

69. Obligations Continue If there is a Dispute, each Party will continue to perform its obligations under this Contract as far as practical given the nature of the dispute.

70. Taking court action: Each Party agrees not to start any court action in relation to a dispute until it has complied with the process described in this clause, unless that Party requires urgent relief from a court.

71. Interlocutory Relief Nothing in this Contract shall affect either Party's right to seek urgent interlocutory relief.

72. Costs and Expenses Each Party will pay its own costs of mediation or alternative dispute resolution **and to avoid doubt, this clause does not apply to the fees, costs or expenses of the Advisor to recover Overdue Amounts Owed via debt collection or debt recovery proceedings.**

NOTICES

73. Requirements All notices must be in writing and delivered by hand or sent by post, courier or email to the recipient Party's address for notices.

74. Receipt of Notices A notice will be considered to have been received when the following has occurred:

- a. if delivered by hand or sent by courier, on the date it is delivered; and
- b. if sent by post within New Zealand, on the 5th Business Day after the date it was sent; and
- c. if sent by post internationally, on the 9th Business Day after the date it was sent; or
- d. if sent by email, at the time the email enters the recipient's information system and it is not returned undelivered or as an error,

but a notice received after 5pm on a Business Day or on a day that is not a Business Day will be considered to have been received on the next Business Day.

VARIATIONS

75. Variations A variation to the scope of services or to a Letter of Engagement shall be sent by the Advisor in writing via email to the Client. This shall be deemed to have been accepted unless the Client specifically responds to decline the Variation.

INTERPRETATION

76. In this Contract, unless the context requires otherwise:

- a. a reference to any monetary amount is to New Zealand currency; and
- b. a reference to time is to New Zealand time; and
- c. a reference to "includes" is to "includes without limitation" and references to "included" and "including" shall be construed accordingly; and
- d. a reference to a Party includes that Party's personal representatives, successors and permitted assigns; and
- e. a reference to a person includes a corporation sole and a body of persons, whether corporate or unincorporated; and
- f. a reference to a document, statute or regulation includes a reference to that document, statute or regulation as amended or replaced from time to time; and
- g. headings will not be used in the interpretation of this Contract.

GENERAL

- 77. No misleading statements** The Advisor warrants that it has not made any misleading or deceptive statements or omissions influencing the Client's entry into this Contract. A breach of this warranty will be deemed a material breach of this Contract.
- 78. Consumer Guarantees Act** The Client is acquiring the services for the purposes of a business, and the provisions of the Consumer Guarantees Act 1993 are excluded accordingly.
- 79. Changes to these terms** These terms of engagement may be updated by the Advisor from time to time. Any such changes shall take effect from the date they are notified to the Client and continued acceptance of the Services shall constitute deemed acceptance of the updated terms of engagement.
- 80. Independent Contractor** Nothing in this Contract constitutes a legal relationship between the Parties of partnership, joint venture, agency, or employment.
- 81. No representing** Neither Party has authority to bind or represent the other Party in anyway except as authorised via any agency approvals (including but not limited to Inland Revenue Department).
- 82. Transfer of rights or obligations** The Advisor must not transfer any of its rights or obligations under this Contract without the Client's prior written approval.
- 83. Severability** If and to the extent any provision or part of a provision is illegal or unenforceable, such provision or part of a provision will be severed from this Contract and will not affect the continued operation of the remaining provisions of this Contract.
- 84. Clauses that remain in force** The clauses that by their nature should remain in force on expiry or termination of this Contract are all clauses in the following sections (Dispute Resolution), (Suspension and Termination of Services), (Confidential Information), (Privacy), (Notices), (General) and all Definitions.
- 85. Entire Agreement** This Contract sets out the entire agreement between the Parties. It replaces any previous communications, negotiations, arrangements or agreements that the Parties had with each other relating to the Services before this Contract was signed, whether they were oral or in writing.
- 86. Waiver** If a Party does not immediately enforce its rights under this Contract that:
- does not mean that the other Party is released or excused from any obligation to perform at the time or in the future, and
 - does not prevent that Party from exercising its rights later.
- 87. Electronic Acceptance** The parties agree that any legal requirement may be met by using electronic means in accordance with the Contract and Commercial Law Act 2017. In this clause the term "legal requirement" has the meaning given to it by section 219(2) of the Contract and Commercial Law Act 2017.
- 88. Signing Not Required** The Client is bound by these terms of engagement if it continues to act in a way that is consistent with the arrangement and discussions held with the Advisor in relation to the Services, and/or the Advisor has incurred time and expense to commence any part of the Services.
- 89. Governing Law** This Contract shall be governed by the laws of New Zealand and the Parties irrevocably submit to the exclusive jurisdiction of the courts of New Zealand.

END OF TERMS