

AGSTS Limited Standard Terms and Conditions of Business

1 Introduction

1.1 AGSTS Limited (including its principals, employees and all its related entities) have set out in this document our basic terms and conditions of business (the “Terms”), which, together with our Engagement letter (together called “this Agreement”), will apply to all work AGSTS Limited undertakes for you with respect to this engagement. If there is any conflict between these Terms and our Engagement letter, then the Engagement letter shall prevail.

2 Our services

2.1 AGSTS Limited will provide the services set out in our Engagement Letter (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.

3 Conflict of Interest

Except as disclosed in the Engagement Letter, AGSTS Limited is not aware of any conflict of interest, which would affect our ability to provide the Services to you. 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.

4 Your obligations

- 4.1 You agree to pay for the Services in accordance with this Agreement.
- 4.2 You will provide AGSTS Limited promptly with such information as may reasonably be required for the proper performance of the Services, including access to appropriate members of your staff, records, information, technology, systems and premises.
- 4.3 AGSTS Limited shall be entitled to rely upon the accuracy of all information provided by you, or by others on your behalf, without independently verifying it.
- 4.4 You shall retain responsibility for the use of, or reliance on, advice or recommendations supplied by us in the delivery of the services.
- 4.5 You undertake that, if anything occurs after information is provided by you to AGSTS Limited, to render such information untrue, unfair or misleading, you will promptly notify AGSTS Limited and, if required by AGSTS Limited, take all necessary steps to correct any announcement, communication or document issued which contains, refers to or is based upon, such information.

4.6 You acknowledge that information made available by you, or by others on your behalf, to or which is otherwise known by, principals or staff of AGSTS Limited who are not engaged in the provision of the Services shall not be deemed to have been made available to the individuals within AGSTS Limited who are engaged in the provision of the Services.

5 Confidentiality

5.1 Both parties acknowledge that they may, in the course of the engagement, be exposed to or 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 may be required by law or judicial process, by any persons or bodies responsible for regulating that party’s business or as required by a party’s internal policies. However we may discuss your affairs with your spouse unless you advise otherwise.

6 Our work papers and client documents

- 6.1 You acknowledge that the work papers we produce in the course of our work for you, which are not an integral part of the end product of that work are the end product of that work are the property of AGSTS Limited.
- 6.2 Where reasonably possible we will:
- a) inform you if any other person seeks access to our work papers; and
 - b) seek your comment before granting access to any person unless we are compelled to do otherwise at law.
- 6.3 In certain circumstances the Inland Revenue Department may request access to information and work papers and we may not be legally able to prevent such access.
- 6.4 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 shall be entitled to retain copies.
- 6.5 We reserve the right to exercise the lien over any documents and files belonging to you, which may be in our possession.

7 Ownership

We shall retain ownership of the copyright and all of the intellectual property rights in the product of the Services, whether oral or tangible, and ownership of our working

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papers. You shall acquire ownership of any end product of the Services on payment of our charges. For the purposes of delivering services to you or other clients, AGSTS Limited shall be entitled to use, develop or share with each other knowledge, experience and skills of general application gained through performing the Services.

8 Staff

8.1 You agree that during the provision of the Services, and for a period of six months thereafter, you will not make any offer of employment to any AGSTS Limited principal or employee involved in the provision of the Services, without our prior consent.

8.2 You agree that should you employ any AGSTS Limited principal or employee involved in the provision of the Services during the provision of the Services, and for a period of six months thereafter, you will pay AGSTS Limited a fee equal to 15% of the remuneration package offered to the person concerned.

9 Benefit of advice

9.1 Unless otherwise specifically stated in the Engagement Letter, 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.

9.2 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 shall 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 shall inform us and we will provide documentary confirmation of the advice.

9.3 AGSTS Limited shall 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.

10 Electronic Mail

10.1 If you ask us to transmit any document to you electronically, you agree to release us from any claim you may have 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 (including by any computer virus).

10.2 You may not rely on electronically transmitted advice or opinion unless it is subsequently confirmed by fax or letter

signed by a principal or authorised signatory of AGSTS Limited.

11 Fees, expenses and payment terms

11.1 Out-of-pocket expenses incurred in connection with the engagement will be charged to you.

11.2 Accounts are to be paid within 7 days of the billing date or such other date as set out in the Engagement letter or on the invoice, or as agreed in writing. If they are not paid by the due date we may charge you a one off late payment fee of \$50 and an additional amount equal to interest on the unpaid balances at a rate equal to 2% of the outstanding balance at the end of each month until full payment is received.

11.3 If the amount remains unpaid for longer than 14 days after the due date we may engage a debt collection agency to obtain payment. Any costs associated with such action will be added to your amount owing.

11.4 If the amount remains outstanding for more than 28 days from the due date we reserve the right to serve you with a statutory demand for payment. If the amount remains outstanding two weeks after serving you with a statutory demand for payment we reserve the right to commence legal action and insolvency proceedings against you. Any costs associated with such action will be added to your amount owing.

11.5 We retain the right to have any refund or credit owing to you forwarded to our trust account. We will deduct the fees owing to us, and forward the balance on to your nominated bank account.

11.6 If we are required (pursuant to subpoena or other legal process) to produce documents or attend court in relation to the Services for judicial or administrative proceedings to which we are not a party, you shall reimburse us at standard billing rates for our professional time and expenses, including reasonable legal fees, incurred in responding to such requests.

11.7 If GST is payable on any supply made under this Agreement, the fee payable will be increased by the GST.

11.8 As per 11.1 above where calculating the amount of disbursements made on your behalf is uneconomic we may elect to use a figure of no higher than 4% of that bill's value in lieu of an exact figure.

11.9 You agree that you waive your right to withhold payment because of any problem with the goods or services provided. You further agree that you waive your right to withhold payment because of any mediation, or some other form of alternative dispute resolution, or legal proceedings.

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12 Problem resolution

- 12.1 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 the principal or associate, as the case may be, identified in the Engagement Letter. We will investigate any complaint promptly and do what we can to resolve the difficulties.
- 12.2 If the problem cannot be resolved, the parties agree to enter into mediation, or some other form of alternative dispute resolution, before commencing legal proceedings.
- 12.3 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. This include the delaying of filing any tax return until that amount is paid in full.
- 12.4 As mentioned in 11.8 above you agree that you waive your right to withhold payment because of any problem with the goods or services provided. You further agree that you waive your right to withhold payment because of any mediation, or some other form of alternative dispute resolution, or legal proceedings.

13 Termination of Agreement

- 13.1 Each of us may terminate this Agreement if:
- The other commits any material or persistent breach of its obligations under this Agreement (which, in the case of a breach capable of remedy, shall not have been remedied within 14 days of receipt by the party in breach of a notice identifying the breach and requiring its remedy); or
 - The other becomes insolvent; or
 - The Services are suspended under clause 12.3 for more than 10 normal working days.
 - Circumstances arise which either party considers are suitable for termination.
- 13.2 Termination must be effected by written notice served on the other.
- 13.3 Termination under this clause shall be without prejudice to any rights that may have accrued for either of us before termination and all sums due to us shall become payable in full when termination takes effect.
- 13.4 Any of the terms and condition of the Agreement which are intended to apply after termination, will continue to apply, including, but not limited to, clauses 5, 6, 7, 8, 9, 11, 14, 15, 21 and 22.

14 Limitation of liability

- 14.1 Subject to clause 14.2, to the maximum extent permitted by law, you agree that AGSTS Limited's liability for any and all loss or damage suffered by you (whether direct, indirect or special) in connection with our engagement shall be limited to one times the amount of professional fees paid to AGSTS Limited for the services and you agree to release AGSTS Limited from all claims arising in connection with the Services to the extent that AGSTS Limited's liability in respect to such claims would exceed this amount.
- 14.2 To the maximum extent permitted by law, you agree that any loss or damage suffered by you which is directly or indirectly attributable to negligence, fault or lack of care on your part or on the part of any other person (including advisors to you), AGSTS Limited is not liable (in contract, tort or otherwise) for the loss or damage and any damages payable by AGSTS Limited shall be reduced to the amount which would be payable by AGSTS Limited 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.
- 14.3 You agree that all claims against AGSTS Limited whether in contract, negligence or otherwise, must be formally commenced within one year 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 two years after any alleged breach of contract, negligence, or other cause of action arises.

15 Indemnities

- 15.1 To the maximum extent permitted by law, you agree to indemnify and hold harmless AGSTS Limited against any and all losses, claims, costs, expenses, actions, demands, damages, liabilities or any other proceedings, whatsoever incurred by AGSTS Limited in respect of any claim by a third party arising from or connected to any breach by you of your obligations under this Agreement.
- 15.2 To the maximum extent permitted by law, AGSTS Limited shall 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 and hold harmless AGSTS Limited from any such liabilities we may have to you or any third party as a result of reliance by AGSTS Limited on any information provided by you or any of your representatives which is false, misleading or incomplete.
- 15.3 In the event of any inconsistency between clauses 14 and 15, clause 15 shall prevail.

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16 Health and Safety

- 16.1 We are required to comply with the provision of the Health and Safety in Employment Act 1992 (the “Act”) by taking all practical steps to ensure the health and safety of our people. AGSTS Limited expects our people to take responsibility to ensure their own safety and that no harm is caused to others in the workplace. However, the Act places responsibility for their safety on you when they are visitors to your site. It may be appropriate for your Health and Safety representative to hold a safety briefing at the beginning of the assignment for those involved, regarding the hazards, provision of any appropriate equipment, awareness of accident reporting procedures and emergency procedures.

17 Privacy

- 17.1 AGSTS Limited will comply with the Privacy Act 1993 when collecting, holding or disclosing personal and sensitive information concerning your shareholders, members, customers, employees and other individuals with whom you have dealing (“stakeholders”).
- 17.2 If your stakeholders have not been made aware of the possible collection, holding, use or disclosure of their personal and sensitive information by AGSTS Limited as part of this engagement, you agree to inform AGSTS Limited so that, should this be necessary, AGSTS Limited may take action to raise the awareness of your stakeholders.

18 Circumstances beyond your or our control

Neither of us shall be in breach of our contractual obligations nor shall either of us incur any liability to the other if we or you are unable to comply with the 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 one shall be obliged as soon as reasonably practicable to notify the other, who shall have the option of suspending or terminating the operation of the Agreement on notice, taking effect immediately on delivery.

19 Governing law and jurisdiction

This Agreement and all aspects of our engagement and our performance of the Services are governed by, and construed in accordance with, the laws applicable in New Zealand. Both you and we agree to irrevocably submit any disputes arising under this agreement to the exclusive jurisdiction of the Courts of New Zealand.

20 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 in question.

21 Statutory Terms

Nothing in these Terms excludes, restricts or modifies the application of the provisions of any statute where to do so would contravene that statute or cause any part of these Terms to be void.

22 Entire agreement

These Terms, and the Engagement Letter, are the only communications governing our relationship. To the maximum extent permitted by law, AGSTS Limited 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. If any representations are important to you, you should ensure that they are expressly set out in the Engagement Letter before signature.