

Terms & Conditions

1.0 Introduction

- 1.1 Naylor Lawrence & Associates Limited, which includes its directors, consultants, employees, officers, auditors, advisors, partners, contractors or subcontractors ("NLA") has set out in this document our standard terms and conditions of business ("Terms"). These Terms together with our Engagement Letter establish our agreement with you with respect to all the services undertaken for you by NLA ("Services").
- 1.2 If there is any inconsistency between these Terms and our Engagement Letter then the Engagement Letter shall take precedence.
- 1.3 The Terms replace all earlier NLA terms of trade and any conditions contained in any document used by you and purporting to have contractual effect. We may update these Terms from time to time and they will be available on our website.
- 1.4 References to "us", "we" and "our" in these Terms shall mean NLA and references to "you" and "your" shall mean the client purchasing the Services from NLA ("Client").

2.0 Services

- 2.1 NLA will provide the Services as set out within the Engagement Letter to you and NLA will use all reasonable commercial efforts to provide the Services in an efficient and timely manner, using the necessary expertise to the appropriate professional standard.
- 2.2 Your acceptance of the Services from NLA indicates your acceptance of these Terms and shall constitute a binding contract between us and you. These Terms also expressly apply to any Services supplied to you by NLA in the future.
- 2.3 NLA may engage reputable contractors in order to assist NLA in undertaking part or all of the Services without obtaining your prior consent. You may not subcontract or assign any of your rights or obligations under these Terms without our prior written consent.

3.0 Conflict of interest

- 3.1 We have internal policies and procedures in place to identify and respond to conflicts of interest. If a conflict of interest arises, we will advise you of this and follow the applicable procedure.

4.0 Your Obligations

- 4.1 You agree to pay for the Services in accordance with these Terms and/or the Engagement Letter.
- 4.2 You will supply as agreed in a timely manner any information that NLA considers necessary to complete the Services.
- 4.3 NLA will be relying on the accuracy of the documentation provided by you or provided by others on your behalf, without independently having to verify it.
- 4.4 You undertake that any additional information pertaining to the Services must be communicated promptly to NLA; this includes any information that may be rendered untrue, unfair or misleading.
- 4.5 You must give NLA (addressed to the Directors) not less than 7 days' prior written notice of any proposed change in the Client's name and/or any other change in the Client's details (including, but not limited to, changes in the Client's address, email address, trading name or business practice).

5.0 Confidentiality

- 5.1 NLA will hold in confidence all information provided by you and will not disclose this information to any third party except for the purposes of undertaking the Services or as required to enforce these Terms or as required by law. You authorise NLA to disclose information to any person for these purposes and where the Client is a natural person this authority is a consent for the purposes of the Privacy Act 1993.
- 5.2 During the course of the engagement, you may acquire information that is proprietary to NLA. You undertake to hold such information in strict confidence and not divulge this information except as required by law or judicial purposes.
- 5.3 You accept that in certain circumstances the Inland Revenue Department or the New Zealand Institute of Chartered Accountants may request access to information and workpapers and we will be entitled to comply with such request.

6.0 Engagement

- 6.1 The nature of the engagement will be agreed upon between NLA and you before the Services can be commenced.
- 6.2 You acknowledge that the engagement cannot be relied upon to disclose internal control weaknesses, errors, illegal acts or other irregularities (e.g. fraud or non-compliance with laws and regulations applicable to the entity) and as such, a compilation is limited primarily to the collection, classification and summarisation of financial information supplied by you. A compilation does not involve the verification of that information. NLA will not carry out an audit or a review assignment on the compilation material and therefore NLA cannot accept any responsibility for the accuracy of the materials from which the financial statements have been prepared.
- 6.3 NLA will ensure the engagement team is clear on the scope of the Services and the appropriate level of management associated with the Services.
- 6.4 The Services will be performed under our Quality Management systems which conform to the standards as published by the New Zealand Institute of Chartered Accountants (NZICA), being NZICA Rules and NZICA Code of Ethics, PS-1 Quality Control, PS-2 Client Monies, SES-2 Compilation of Financial Information.
- 6.5 NLA will comply with all legislation, codes and standards specified above and NLA is under no liability for a failure to meet any other legislation, codes or standards. If, after the commencement of the Services, there are any changes in legislation, codes or standards with which NLA must comply, then you agree to reimburse or pay to NLA an amount equal to any additional costs incurred by NLA relating to such compliance.
- 6.6 Should the provision of the Services require NLA to seek advice from outside organisations, consultants, advisors or contractors due to the nature of the work involved NLA will, after written notice to you, disburse the cost to you.

7.0 Variations to the Engagement

- 7.1 Any requested variation made by you to the Services being undertaken must be notified in writing and agreed to by NLA and NLA will advise you of any change in its fees as a result of the variation. Should any Services be requested under urgency, this will require a review of NLA's fees and this will be communicated to you by NLA.

- 7.2 NLA reserves the right to charge to you any extra cost associated with completing the Services because of a request by you and/or any action or inaction by you or on your behalf.
- 7.3 NLA confirms that the independence of NLA from you or the appointing party is not a requirement for an engagement to compile financial information.
- 7.4 If we are to provide custody of any documents by you or on your behalf, i.e. share registers, those documents will be retained during the course of the engagement (unless you request an earlier return) at the end of which they will be returned to you unless separate arrangements have been made and agreed to by both NLA and you.
- 7.5 NLA will inform the appropriate level of your management or those charged with governance of the entity, as appropriate of any matters that come to NLA's attention in the course of performing the Services which may cause us to believe or suspect that errors or misstatements, illegal acts or other irregularities exist, either in relation to the entity or the financial information that is the subject of the engagement.

8.0 Communication

- 8.1 Should you require us to email you any documentation, you agree to release us from any claim that may arise directly or indirectly from any unauthorised copying, recording, reading or interference with that document after transmission, any delay or non-delivery of the documentation and any damage caused to your system by any files that have been transmitted. You may not rely on electronically transmitted information, advice or opinion until it has been subsequently confirmed by letter signed by an authorised signatory of NLA.

9.0 Problem resolution

- 9.1 If at any time you would like to discuss how the Services may be improved or you have an issue with them, you are encouraged to write to or phone the Office Manager or a Director of NLA, who will investigate any complaint promptly to resolve the issue.
- 9.2 If a dispute arises out of the engagement, and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation before resorting to arbitration, litigation, or some other dispute resolution procedure.
- 9.3 In the event of a dispute, or where fees remain unpaid beyond the due date, NLA reserve the right to suspend provision of the Services until such time as the dispute is resolved. Suspension of the Services will not affect your obligation to pay us for the Services rendered up to and including the date of the suspension.

10.0 Fees, expenses and payment terms

- 10.1 Unless expressly provided otherwise in the Engagement Letter, payment in full will be due by the 20th of the month following the invoice date.
- 10.2 In all circumstances NLA retains legal ownership of all working papers prepared by NLA. NLA retains ownership of all other information and documentation on your file until payment is made in full.
- 10.3 If you default on payment NLA may charge default penalty interest at 1.5 times the bank overdraft rate, calculated on a daily basis on the unpaid amount from the due date until the date payment is received in full.

- 10.4 If a credit or debt collection agency is required to obtain payment any costs charged by the agency in the course of collection of outstanding monies owed by you, including commissions, will be on charged to you.

11.0 Termination of Engagement

- 11.1 In the event that either party believes that the other party has materially breached any obligations under these Terms that party shall so notify the breaching party in writing. The breaching party shall have 14 days from the receipt of notice to resolve the alleged breach and to notify the non-breaching party in writing that resolution has been effected. If the breach is not resolved within the 14 days the non-breaching party shall have the right to immediately terminate the engagement.
- 11.2 Termination under this clause shall be without prejudice to any rights that may have accrued under these Terms.

12.0 Limitation of Liability

- 12.1 In consideration for NLA agreeing to provide the Services at the Client's request, where the Client is a Trust or a Company, the trustees, directors and/or shareholders signing the Engagement Letter also sign in their personal capacity and jointly and severally personally undertake as principal debtors to NLA the payment of any and all monies owed by the Client to NLA and indemnify NLA against non-payment by the Client.
- 12.2 NLA's rights against a trustee will be limited to the assets of the trust if the trustee is an independent trustee (not being a trustee who has a right to or interest in any of the assets of the trust), provided that this limitation will not apply in the case of fraud, gross negligence or wilful breach of trust by the trustee or if the right of that trustee to be indemnified from the trust assets has been lost or impaired or if the trustee has guaranteed, in his or her personal capacity, the Client's obligations to NLA.
- 12.3 Except where statute expressly requires otherwise, NLA is not liable in any event for any loss of profits, loss of revenue, loss of goodwill or business opportunities, loss of customers or any consequential, indirect or special damage, loss or injury of any kind suffered by you or any other person arising directly or indirectly out of the provision of the Services. Insofar as NLA may be liable to you notwithstanding anything contained in these Terms, to the maximum extent permitted by law, NLA's total liability to you whether in tort (including negligence), contract, equity, or otherwise for any loss, damage or injury arising directly or indirectly out of the provision of the Services or any other breach of our obligations is limited to **the lesser of** an amount equal to five times the annual accounting fee or the actual loss or damage suffered by you.
- 12.4 To the maximum extent allowed by law you agree to indemnify and hold harmless NLA against any and all losses, claims, costs, expenses, actions, demands and damages, liabilities or any other proceedings, whatsoever incurred by NLA in respect of any claim by a third party arising from or connected to any breach by you of your obligations under these Terms. This indemnity for NLA will also include liability arising from reliance by NLA on any information provided by you or any of your representatives which is false, misleading or incomplete.

13.0 Entire Agreement and Governing Law

- 13.1 These Terms and the Engagement Letter are the only communications that govern our relationship. If any further representations are important to you, you should ensure they are expressly set out within the Engagement Letter.
- 13.2 These Terms shall be governed by and interpreted in accordance with the laws of New Zealand.