

Terms of Business



These Terms of Business apply in respect of the services you have engaged Essential Accounting Melbourne to provide under the attached Engagement Letter (or Proposal) ("Services"). These Terms of Business and the Engagement Letter (or Proposal) form the basis of the contract between you and Essential Accounting Melbourne ("Contract"). This contract forms the entire agreement between you and Essential Accounting Melbourne relating to the Services. It replaces and supersedes any previous proposals, correspondence, understandings or other communications (written or oral)

1. PERFORMANCE OF THE SERVICES

1.1 The scope of the Services is limited to the work specified in the Engagement Letter (or Proposal). Either you or Essential Accounting Melbourne may request changes to the Services.

1.2 Essential Accounting Melbourne will use reasonable commercial efforts to provide the Services in an efficient and timely manner using all reasonable skill and expertise.

1.3 The Services are not legal Services and do not constitute legal advice.

1.4 Dates in any timetable set out in the Engagement Letter (or Proposal) or otherwise advised are intended for planning and estimating purposes only and are not contractually binding.

1.5 The services will be provided solely for your benefit and use. Essential Accounting Melbourne accepts no liability or responsibility to any third party in respect of the Services.

1.6 In the course of providing the Services, Essential Accounting Melbourne may provide oral comments or draft reports, presentations, letters, schedules and other documents. You may not rely on such oral comments or draft documents, conclusions or advice as they may be subject to further work, revision and other factors. The final results of Essential Accounting Melbourne's work will be set out in its final report or advice.

1.7 Essential Accounting Melbourne will not audit or independently verify the accounting records or information that you have provided in connection with the Services.

1.8 Essential Accounting Melbourne's work will be based on documents and information provided to it, or obtained by it in connection with the Services. Essential Accounting Melbourne will not verify the accuracy and completeness of such documentation or information.

1.9 Changes in the law may take place before Essential Accounting Melbourne's advice is acted upon or may be retrospective in effect. Essential Accounting Melbourne accepts no responsibility to inform you of changes in the law or interpretations affecting advice previously given by it.

1.10 Essential Accounting Melbourne often has to rely on external information or public records to carry out your instructions. Essential Accounting Melbourne

does not accept responsibility and will not be liable for any direct or indirect damage or loss caused by errors or omissions in external information.

1.11 Some of the matters on which Essential Accounting Melbourne may be asked to advise you may have tax implications for other entities, directors, employees or any other parties. Essential Accounting Melbourne will not bear any liability to you or any other relevant entities, directors, employees or any other parties in respect of those tax implications, and you indemnify Essential Accounting Melbourne against any claim by any such entities, directors, employees or other parties in this respect.

2. YOUR OBLIGATIONS

2.1 The timely completion of the Services requires your cooperation in the provision of information, documents and resources relevant to the Services. Estimates of time for completion of the Services are given on the assumption that Essential Accounting Melbourne receives this cooperation. Essential Accounting Melbourne may charge additional fees and expenses which result from delays in providing this cooperation.

2.2 You agree to:

- a. provide all information, documents and resources that reasonably requires to enable it to provide the Services including arranging access to third parties, your premises and systems, and providing reasonable working facilities for Essential Accounting Melbourne (where applicable);
- b. ensure that appropriate back up, security and virus checking procedures are in place for any computer facilities you provide;
- c. make senior staff available for consultation on request;
- d. make decisions promptly to facilitate the performance of the Services;
- e. bring to Essential Accounting Melbourne's attention any changes in the information provided to it as originally presented, and ensure that information supplied by you or on your behalf, to the best of your knowledge and belief, is not false or misleading and does not omit material particulars.

2.3 You acknowledge that information relating to you, or that you make available, and known by Principals/Partners or staff at Essential Accounting Melbourne who are not engaged in performing the Services shall not be deemed to have been made available to the individuals within Essential Accounting Melbourne who are engaged in the provision of the Services.

2.4 Except as required by law, you must not provide any documentation or deliverables in respect of the Services to any third party (including without limitation, the filing of information containing or referring to any of our reports with regulators or the inclusion of our reports in any public document) without our written consent.

3. INCOME TAX RETURNS

3.1 All income tax returns are subject to examination by the Australian Taxation Office ("ATO"). You may be requested to produce documents, records or other evidence to substantiate items shown on the income tax return.

3.2 The preparation of your income tax return does not constitute a prudential tax audit and cannot be relied upon as such. The onus is on you, the taxpayer, to self-assess and there are substantial penalties for incorrect returns. You should carefully review the income tax return to ensure that items shown are accurately stated so that amendments can be made for any incorrect matters.

4. CONFIDENTIALITY

4.1 In this Contract, “Confidential Information” means all non-public information or documents which either party receives or produces in connection with the Services (including Essential Accounting Melbourne’s working papers, the Engagement Letter (or Proposal) and Essential Accounting Melbourne’s business processes and methodologies) but does not include any information which is:

- a. or becomes generally available to the public other than as a result of a breach of this clause;
- b. known to either party prior to Essential Accounting Melbourne commencing the Services;
- c. received from a third party who owes no obligation of confidence in respect of the information; or
- d. developed by either party independently of the Services to which this Contract relates.

4.2 Neither you nor Essential Accounting Melbourne may disclose Confidential Information about or belonging to the other without the other’s consent.

4.3 Notwithstanding the above, Essential Accounting Melbourne may disclose Confidential Information to contractors in relation to the provision of the Services, to assist in quality assurance reviews or for any other purpose in our Privacy Policy. If you object to being included in any of these reviews, you must advise Essential Accounting Melbourne in writing at the commencement of the contract and Essential Accounting Melbourne will use its best endeavours to exclude this Contract and the Services from such reviews.

4.4 Either party may disclose Confidential Information:

- a. to its insurers or legal advisors, provided that the Confidential Information remains confidential;
- b. if required to do so by law; or
- c. if required for the proper performance of the Services.

4.5 Provided it does not disclose any Confidential Information, Essential Accounting Melbourne may cite the performance of the Services to clients as an indication of its experience.

5. PRIVACY OF PERSONAL INFORMATION

5.1 Essential Accounting Melbourne will only collect hold, use and disclose personal information (as defined in the Privacy Act 1998 (Cth) (“Privacy Act”)) for the purposes outlined in its Privacy Policy, and only if such disclosure will not infringe protections afforded by the Privacy Act. If personal information is disclosed to Essential Accounting Melbourne in connection with it providing the Services, it will be treated in accordance with the Privacy Act and the terms of its privacy policy.

5.2 If the performance of the Services requires a third party to this Contract to supply personal information to Essential Accounting Melbourne on your request, you must ensure that the third party has satisfied the requirements of the Privacy Act and is permitted by the Privacy Act to disclose such personal information to us.

5.3 If the Services require Essential Accounting Melbourne to collect personal information from a third party, you must do and be responsible for, all things

necessary (including providing appropriate consents) for Essential Accounting Melbourne to collect such personal information.

6. INTELLECTUAL PROPERTY

6.1 Intellectual property rights in all documentation, systems, materials, methodologies and processes owned by Essential Accounting Melbourne or created in the course of Essential Accounting Melbourne performing the Services shall remain and be vested in Essential Accounting Melbourne. Essential Accounting Melbourne may, in future engagements with other clients, use techniques, methodologies, ideas, concepts, information and general knowhow gained in the course of it performing the services provided such use does not involve the unauthorised disclosure of Confidential Information.

6.2 Essential Accounting Melbourne may use or develop software, including spreadsheets, databases and other electronic tools (“Tools”) in providing the Services. If Essential Accounting Melbourne provides these Tools to you, you acknowledge that they are not your property, were developed for our purposes and without consideration of any purposes for which you might use them, are made available on an “as is” basis for your use only and must not be distributed to or shared with any third party. To the full extent permitted by law, we make no representations or warranties as to the sufficiency or appropriateness of the Tools for any purpose for which you or a third party may use them.

6.3 You must not use the Essential Accounting Melbourne name or logo on any websites or in any public statement, (including filing all or part of a report with a regulator or including all or part of a report in any public document) without obtaining Essential Accounting Melbourne's prior written consent. You must not make any public statement about Essential Accounting Melbourne or the Services without Essential Accounting Melbourne's prior consent.

7. DOCUMENTS

7.1 Essential Accounting Melbourne will keep your file and documents (which may contain personal information about you) for the minimum period stipulated by any relevant legislation, after which Essential Accounting Melbourne may destroy your file and documents in a confidential manner, provided the information contained within them is no longer relevant to the purposes for which it was collected. You may instruct Essential Accounting Melbourne in writing at any time to deliver to you (or to a nominee) the original or electronic copy of any documents (as the case may be). Essential Accounting Melbourne will deal with any such request in accordance with its Privacy Policy.

7.2 You must immediately advise Essential Accounting Melbourne if you become aware that any document is, or is reasonably likely to be, required as evidence in a legal proceeding, so that the document can be delivered to you for safe keeping.

7.3 If Essential Accounting Melbourne is 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 the contract (unless their earlier return is requested), at the end of which the file and documents will be returned to you unless separate arrangements have been made.

7.4 Essential Accounting Melbourne, in its absolute discretion, may retain copies of any documents it has prepared or received in relation to providing the Services, in accordance with its Privacy Policy.

7.5 Essential Accounting Melbourne reserves the right to exercise a lien over any documents and files belonging to you which may be in its possession.

8. ELECTRONIC COMMUNICATIONS

8.1 Essential Accounting Melbourne may communicate with you electronically from time to time, including sending you Commercial Electronic Messages (as defined in the SPAM Act 2003 (Cth) and you consent to such communications.

8.2 Electronically transmitted information cannot be guaranteed to be secure or virus or error free and consequently such information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete or otherwise be adversely affected or unsafe to use. Essential Accounting Melbourne will not be liable to you in respect of any error, omission or loss of confidentiality arising from or in connection with the electronic communication of information to you. If you do not accept these risks, you should notify Essential Accounting Melbourne in writing that you do not want it to communicate electronically with you.

9. LIMITATION OF LIABILITY

9.1 The liability of Essential Accounting Melbourne for loss or damage arising out of or in connection with the Services, whether arising from breach of contract, tort (including without limitation negligence), breach of statutory duty or otherwise, is limited to an amount equal to ten times the fees payable by you for the Services ("Liability Cap").

9.2 However, the Liability Cap does not apply to the extent prohibited by the Corporations Act 2001 (Cth) ("Corporations Act") or any other law.

9.3 The parties acknowledge that the Australian professional standards legislation, including the Treasury Legislation Amendment (Professional Standards) Act 2004 (Cth), ("The Australian Professional Standards Legislation") may apply in accordance with its terms in relation to the liability of Essential Accounting Melbourne for loss or damage arising out of or in connection with the Services.

9.4 To the extent permitted by law, if, under any applicable Australian Professional Standards Legislation, the maximum liability of Essential Accounting Melbourne for loss or damage arising out of or in connection with the Services would be:

- a. A higher amount than the Liability Cap, then the Liability Cap will not apply and the maximum liability of Essential Accounting Melbourne will be calculated in accordance with the Australian Professional Standards Legislation.
- b. A lower amount than the Liability Cap, then the Liability Cap will not apply and the maximum liability of Essential Accounting Melbourne will be calculated in accordance with Australian Professional Standards Legislation.

9.5 To the extent permitted by law, Essential Accounting Melbourne excludes all liability to you for loss of profits, loss of revenue, loss of opportunity, business interruption, loss of data, failure to realise anticipated savings or benefits, and for any indirect or consequential loss or damage (whether or not Essential Accounting Melbourne knew or had been advised of the possibility of such loss or damage) including without limitation costs and expenses, arising in any way out of or in connection with the Services.

9.6 If you make any claim against us for loss arising out of or in connection with the Services or this Contract, liability for your loss and any amount you may recover will be apportioned having regard to the respective responsibility for the loss.

9.7 To the extent permitted by the Corporations Act, you will indemnify and hold harmless Essential Accounting Melbourne and our respective Principals/Partners, directors and employees from and against any liabilities, losses, claims, costs, damages or expenses that may result from any actions, claims or asserted rights of action by third parties (including without limitation those based on negligence) arising out of or in connection with the Services or any use by you of any deliverable under this Contract, and you will reimburse Essential Accounting Melbourne for all costs and expenses (including legal fees on a solicitor/client basis) incurred by Essential Accounting Melbourne in connection with any such action, claim or asserted right of action. To the extent that this indemnity is for their benefit, Essential Accounting Melbourne holds the benefit of the indemnity on trust for its Principals/Partners, directors and employees.

9.8 We have not made any, and to the extent permitted by law we exclude, all warranties, conditions or guarantees of any nature in respect of the Services or the satisfactory conclusion of the Services or with respect to the economic, financial or other results which you may experience as a result of the Services.

9.9 Where warranties, conditions or guarantees or any other rights are implied into this Contract, or otherwise conferred by the Competition and Consumer Act 2010 (Cth) or other laws, and it is not lawful or possible to exclude them, then those warranties, conditions or guarantees or other rights will (but only to the extent required by law) apply to this Contract. To the extent permitted by law, we limit our liability in respect of such warranties, conditions or guarantees to, at your option, the supply of the Services again or the payment of the cost of having the Services supplied again.

9.10 To the extent permitted by law (including the Corporations Act), Essential Accounting Melbourne's employees shall have no liability to you, whether for breach of contract, tort (including without limitation negligence), breach of statutory duty or otherwise, arising in any way out of or in connection with the Services. You agree not to bring any claim (whether in contract, tort (including without limitation negligence), breach of statutory duty or otherwise) arising in any way out of or in connection with the Services against any of our Principals/Partners, directors and employees personally. This will not limit or exclude any liability we may have for their acts or omissions. This clause is expressly for the benefit of our employees, and you agree that each employee is entitled to rely on this clause as if they were parties to this Contract. Essential Accounting Melbourne is also entitled to bring proceedings to enforce this clause on behalf of its employees.

10. FEES AND EXPENSES

10.1 You agree to pay fees for the Services, which will be charged on a fixed and/or hourly basis. Goods and Services Tax ("GST") at the prevailing rate will be added to and forms part of Essential Accounting Melbourne's fees (where applicable). It is a fundamental term of this Contract that we look to you as the responsible party for the payment of our fees and expenses. This is despite the

fact that part of our fees and expenses may relate to Services provided to other entities and/or individuals.

10.2 You agree to pay Essential Accounting Melbourne's reasonable out of pocket expenses incurred in connection with the Services. The charge will be calculated as the amounts Essential Accounting Melbourne incurs (net of any GST input tax credit to which Essential Accounting Melbourne is entitled) plus GST as applicable. If out of pocket expenses exceed \$200, Essential Accounting Melbourne reserves the right to forward details to you for payment direct to the supplier of the expense.

10.3 Where possible, we will give you an estimate of our fees or quote a fixed fee in the Engagement Letter (or Proposal). Any fee estimate or fixed fee is given in good faith but is not contractually binding.

10.4 Essential Accounting Melbourne may revise its fee scale from time to time. Rates quoted to you remain in force until the next 31 December or 30 June (whichever is sooner) or as stated in the Engagement Letter (or Proposal). Essential Accounting Melbourne may increase its fees for any work performed after these dates. Essential Accounting Melbourne reserves the right to change its rates outside these dates and will communicate any such change directly to you.

10.5 Your obligation to pay Essential Accounting Melbourne the fees and expenses arises at the commencement of the contract after which you will be issued an invoice(s). Fees and expenses will be invoiced upfront and are payable immediately unless otherwise agreed in the Engagement Letter (or Proposal). Where an amount for GST is stated to be a component of the fees and expenses, Essential Accounting Melbourne's invoice will be a compliant "tax invoice" for GST purposes.

10.6 Essential Accounting Melbourne may charge interest on amounts which are overdue by more than a month at the rate of 10% over the current 90 day bank bill rate. If your account remains unpaid and there is no satisfactory explanation for non-payment Essential Accounting Melbourne may:

a. start proceedings to recover the amount owed, plus default interest and any collection costs incurred;
and/or

b. do no further work for you, and will not release your papers and files until all overdue amounts and any interest are paid.

10.7 If Essential Accounting Melbourne has assessed that no GST should be payable in respect of the Services, and for whatever reason, Essential Accounting Melbourne changes its assessment, or if the ATO assesses that GST is payable, then it will be added to and form part of Essential Accounting Melbourne's fees and expenses at the prevailing GST rate. Essential Accounting Melbourne reserves the right to recover from you at any time, any GST payable by Essential Accounting Melbourne on the provision of the Services, goods or any other items supplied to you under this contract.

10.8 Where the contract relates to the conduct of a statutory audit or review, Essential Accounting Melbourne will be entitled to extra fees for any time it spends investigating circumstances that may fall within section 311, 601HG(4) or 990K of the Corporations Act, including reporting to the Australian Securities and Investments Commission ("ASIC") in accordance with any of those sections.

10.9 If you dispute all or part of an invoice, you (and Essential Accounting Melbourne) agree to seek to resolve the dispute under clause 13.10. If you dispute part of an invoice, you agree to pay the undisputed part of the invoice as and when it is or becomes due and payable.

10.10 If Essential Accounting Melbourne receives any legally enforceable notice or demand issued by any third party (including but not limited to ASIC, the ATO, the Australian Securities Exchange, any court or tribunal) in relation to or in connection with the services, you agree to pay our reasonable professional costs and expenses (including solicitor/client expenses) in complying with or challenging any such notice or demand to the extent that our costs and expenses are not recovered or recoverable from the party issuing the notice or demand. We will notify you as soon as practicable (unless restricted by law) where we receive any such legally enforceable notice or demand.

11. CONTRACTORS AND THIRD PARTIES

11.1 Essential Accounting Melbourne reserves the right to employ contractors to provide some or all of the Services, and any reference to Essential Accounting Melbourne's staff includes such contractors. Essential Accounting Melbourne will remain liable to you for any of the Services that are provided by its contractors.

12. GENERAL

12.1 Essential Accounting Melbourne engagement team

Essential Accounting Melbourne will use reasonable efforts to ensure that individuals named in the Engagement Letter (or Proposal) are available to perform the Services. For the duration of the Contract, and for a period of 12 months after its termination or completion, you will not employ or procure a third party to employ any Essential Accounting Melbourne employee who has taken part in the performance of the Services without Essential Accounting Melbourne's prior consent. If you offer employment to such an employee, and if Essential Accounting Melbourne gives its consent and the employee accepts the offer, then you will pay a recruitment fee to Essential Accounting Melbourne, calculated at 30% of the relevant employee's gross annual salary package.

12.2 Relationship with other clients

Essential Accounting Melbourne provides services to other clients, some of whom may be in competition with you or have interests which conflict with your own. Essential Accounting Melbourne is not prevented or restricted by virtue of its relationship with you under this Contract from providing services to other clients.

12.3 Our relationship with you

You acknowledge and agree that Essential Accounting Melbourne's relationship with you is that of an independent contractor. Neither party may claim or make any representation whatsoever to any third party that it is an agent of, or in partnership with, the other party and each party acknowledges that it has no power or authority to bind the other in respect of any matter whatsoever and it will not represent to any person that it has such power or authority.

12.4 Waiver

A failure or delay by a party in exercising a power or right given to it under this contract does not operate as waiver of that power or right, nor does a single or partial exercise of a power or right prevent any other or further exercise of it. A

waiver by a party of a power or right given to it under this Contract does not affect any other provision of this Contract.

12.5 Conflict of Interest

Except as disclosed in the Engagement Letter (or Proposal), we are 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 actual or potential conflicts of interest, and we will work with you to find a suitable solution.

13. TERM AND TERMINATION

13.1 This Contract commences on the commencement date stated in the Engagement Letter (or Proposal). If no commencement date is specified, the Contract commences on the date of acceptance (as specified in the Engagement Letter (or Proposal)), or the date on which the Services commenced, whichever is earlier.

13.2 Subject to any statutory provisions that apply to the Services, either party may terminate this contract at any time by giving at least 14 days written notice. On termination, you shall immediately pay on request all fees and expenses due in respect of the Services provided up to the date of termination and, unless the Contract is terminated for cause, you will pay Essential Accounting Melbourne's reasonable costs and expenses incurred in connection with the termination of the Contract. For the avoidance of doubt, the date of termination is the date on which any period of notice expires.

13.3 Essential Accounting Melbourne may immediately terminate the Contract, by providing notice in writing, if Essential Accounting Melbourne's provision of Services to you will result or has resulted in Essential Accounting Melbourne ceasing to be independent in relation to an audit client. You will immediately pay on request the fees due for all of the Services provided up to the date of termination.

13.4 Termination of the Contract shall be without prejudice to any of the parties' accrued rights. The following clauses continue to apply after termination of the Contract: 4, 5, 6, 7 and 9. The terms of the Contract which expressly or by implication are intended to survive its termination or expiry will survive and continue to bind the parties.

13.5 Auditor independence

If Essential Accounting Melbourne acts as your auditor, you:

- a. agree to inform all officers and audit critical employees (as those terms are defined in the Corporations Act), and those of your associated entities, that they may not be employed by or provide Services to Essential Accounting Melbourne while Essential Accounting Melbourne is the auditor of the client;
- b. agree that you will seek Essential Accounting Melbourne's consent before appointing a former Principal or former professional employee of Essential Accounting Melbourne as an officer or audit-critical employee, or an associated entity makes such an appointment. You acknowledge that Essential Accounting Melbourne will not consent to such appointment where the appointment would cause Essential Accounting Melbourne to be in breach of applicable independence restrictions; and confirm that any requirement for audit committee preapproval of the Services has been obtained.

13.6 Address for Services

Any written notice to be given to a party must be delivered in person, by letter or by facsimile transmission, to:

- a. in the case of notices to Essential Accounting Melbourne, to its address, clearly marked for the attention of the person appearing in the Engagement Letter (or Proposal); and
- b. in the case of notices to you, to the address last notified by you.

13.7 Governing Law

This Contract shall be governed by and interpreted in accordance with the laws of Australia and the State referred to in the Engagement Letter or Proposal and the Courts of Australia or that State shall have exclusive jurisdiction in relation to any claim, dispute or difference concerning the Contract and any matter arising from it. The parties irrevocably waive any right they may have to object to any action being brought in an inconvenient forum or to claim that those courts do not have jurisdiction. If no State is specified in the Engagement Letter or Proposal, the laws of the State in which the Engagement Letter or Proposal is issued by Essential Accounting Melbourne shall apply.

13.8 Disputes

If any dispute arises, prior to commencing legal proceedings the parties must attempt to resolve the dispute in good faith by senior level negotiations. Where the parties agree that it may be beneficial, the parties will seek to resolve the dispute through mediation.

13.9 Force majeure

Neither party will be liable to the other for any delay or failure to fulfil their obligations (excluding payment obligations) under this Contract to the extent that any such delay or failure arises from causes beyond their control, including but not limited to fire, flood, acts of God, acts or regulations of any governmental authority, war, riot, terrorist activities, strikes, lockouts and industrial disputes.

13.10 No assignment

Neither party may transfer, charge or otherwise seek to deal with its rights or obligations under this Contract without prior written consent of the other party, except that each may transfer its respective rights and obligations to any partnership or legal entity authorised to take over all or part of a party's business.

13.11 Validity of Contract terms and severance

If any provision of this Contract is held to be invalid, in whole or in part, such provision shall be deemed not to form part of and will be severed from, the Contract. The enforceability of the remainder of the Contract will not be affected.

13.12 Conflicting terms

- a. In the event of any conflict between the Engagement Letter and these Terms of Business, or the Proposal, the Engagement Letter will take precedence.
- b. Nothing in this Contract applies to the extent that it is invalid or prohibited by the operation of the Corporations Act.

14. DEFINITIONS

For the purpose of this Contract:

Contract means the agreement between you and Essential Accounting Melbourne as set out in these Terms of Business and the Engagement Letter (or Proposal) together with any changes to the Contract that are agreed in writing

between you and Essential Accounting Melbourne. Engagement Letter means the Engagement Letter or confirmation letter to which these Terms of Business are attached.

Implementation Plan means Engagement Letter

Proposal means any written or verbal proposal for the provision of the Services, other than the Engagement Letter.