

Standard Terms

1. APPLICATION

These terms of engagement (**Standard Terms**) apply to all work performed by 2609 Consulting Pty Ltd ACN 165 098 957 (**us, our, we** etc) from date.

2. SERVICE OFFERING

2.1 Our “Service Charter” (**Service Charter**) describes in general terms:

- (a) our current service offerings (**Available Services**); and
- (b) your responsibilities as our client when using our services.

2.2 We reserve the right to vary the Service Charter from time to time in our discretion, with reasonable prior notice. Normally, this means no less than fourteen (14) days notice. However sometimes, such as in situations of urgency, this may mean less.

2.3 Subject to the Contract Documents, we agree to perform all Available Service you ask us to perform from time to time.

3. FEES & BILLING

3.1 Before work begins, we will provide to you a proposal letter (**Proposal Letter**) disclosing the fees we charge for our services (**Rates**). If the date of the Proposal Letter is dated on or prior to 31 March, all Rates will be current to the end of the same financial year. If the date of the Proposal is dated 1 April or later all Rates will be current to the end of the next financial year unless otherwise stated.

3.2 Unless otherwise stated in the Proposal Letter, we may at our discretion elect to bill you in the following ways:

- (a) progressively invoicing you at intervals of one calendar month or more;
- (b) progressively invoicing you at completion of distinct tasks or stages of work;
- (c) issuing a single invoice at the conclusion of our services; or
- (d) issuing a single invoice prior to the commencement of our services.

3.3 Normally, our Fee Proposal will tell you when our invoices will be payable. If the Fee Proposal does not tell you this, all invoice will be due and payable no later than thirty (30) days after the date of the invoice.

3.4 You must pay us electronically; we do not accept cash or cheques. If we agree to accept payment by credit card, you agree that we may impose a surcharge referable to any fees and charges imposed on us by third parties.

3.5 We reserve the right to:

- (a) charge interest on any amounts not paid to us when due. Interest will accrue at the rate of 15% per annum and calculated daily based on a 365-day year;
- (b) recover from you in full all costs and expenses we incur with others if you do not pay us in full or on time or otherwise breach the Contract Documents (for example, legal fees and debt collection costs), except to the extent to which we may claim input tax credits;
- (c) claim a lien over all property, both tangible and intangible and in whatever form (electronic, or hardcopy), over which we have expended labour and made more valuable which is in our possession, custody, or control at any time when you owe us money.

4. OTHER PROFESSIONALS

4.1 Normally, you will be responsible for:

- (a) engaging all third parties associated with our services (for example, accountants, tax agents, lawyers etc); and
- (b) paying all related charges directly to those third parties.

4.2 If we agree to engage or pay third-parties professionals on your behalf, we will do so as your agent. In this case you must indemnify us from and against all liabilities we incur and or immediately reimburse to us on request the full amount of all liabilities we incur on your behalf.

4.3 Normally, we will only agree to engage or pay third parties if you pay us the full required amount of all related charges in advance.

5. COMPLIANCE WITH LAWS

You warrant, represent, and undertake to us, as an essential condition of our agreement to provide services to you, that you will always comply with all laws applicable in each jurisdiction in which you conduct business. This includes without limitation all tax, superannuation, and work health and safety laws.

6. SUSPENSION

You agree that we may, at our discretion, suspend provision of our services in circumstances where you:

- (a) fail to pay an us in full or on time;
- (b) otherwise breach the Contract Documents; or
- (c) dispute liability to pay us;

or where we form a view that another issue requires resolution before our work continues.

7. TERMINATION

7.1 We may, at our discretion, cease provision of our services at any time if you:

- (a) fail to pay us;
- (b) otherwise beach the Contract Documents;
- (c) dispute liability to pay us; or
- (d) fail to provide to us accurate, truthful, and complete information;

or if:

- (e) a conflict of interest arises which we could not reasonably have foreseen or did not forewarn you about at the time we issued our Proposal Letter;
- (f) we consider our relationship has irretrievably broken down.

7.2 The right to terminate provision of our services is an extension of our right to suspend services (as per clause 5).

7.3 We will not be liable to you in any way for any matter relating to or arising from our decision to terminate our services for any of the reasons listed in clause 7.1.

- 7.4 Normally, we will provide no less than fourteen (14) days notice of termination. However, we reserve the right to provide less notice if we deem it appropriate or reasonable to do so.
- 7.5 If your business data is hosted solely within a software service (cloud, or desktop) owned or subscribed to by us, you must export/remove your data before the effective date of termination.

8. CONFLICTS OF INTEREST

- 8.1 Provision of our services to you is not exclusive.
- 8.2 There may be occasions where a potential conflict or actual conflict arises.
- 8.3 We will endeavour to take practical steps to identify and appropriately manage any potential and actual conflicts, however, sometimes conflicts arise unexpectedly.
- 8.4 In most cases, our services can continue without issue.
- 8.5 We will advise you in writing if we form a view that, due to an actual conflict of interest, it is no longer appropriate for our services to continue.

9. LEGAL RISK & LIABILITY

- 9.1 We expressly negate all liabilities, conditions, warranties, and guarantees which we may exclude from your dealings with us.
- 9.2 We limit any liability we may incur to you for failure to comply with Part 3-2, Division 1 of the Australian Consumer Law to, at our discretion, either:
- (a) supplying the services again; or
 - (b) paying the cost of having the services supplied again.
- 9.3 We limit our maximum aggregate liability to you in connection with our services to the total amount of all money paid by you to us in relation to the relevant supply.
- 9.4 Any amounts paid by us under and the value of any of our services re-supplied by us in connection with clause 9.2 shall count towards calculation of our maximum aggregate liability as described in clause 9.3.
- 9.5 Subject to clause 9.2, in no event will we be liable to you for any claim or liability whatsoever, including any consequential loss, even if we have been advised of the possibility or risk of such claim or liability at any time.
- 9.6 We may reduce any liability that we may have to you to the extent that:
- (a) you or your affiliates caused or contributed to that liability and/or;
 - (b) you are insured in respect of that liability.
- 9.7 To the maximum extent permitted by law, you indemnify us and agree to keep us indemnified and hold us harmless from and against all claims, liabilities and consequential losses directly or indirectly relating to your dealings with us except to the extent to which our negligent, reckless, or intentional act or omission caused or contributed to same.

10. DISCLAIMERS

10.1 Legal Advice

We are not qualified in law and do not provide legal services. You should consider engaging an Australian legal practitioner to provide professional legal services as required. We do not accept

responsibility to decide or advise you when it may be necessary or prudent for you to seek professional legal services.

10.2 Tax, Financial, and Accounting Advice

- (a) We are a “BAS agent” registered with the Australian Tax Practitioners Board (TPB). This means that we are qualified and entitled to charge fees for the provision of “BAS services” as defined in legislation including the *Tax Agent Services Act 2009* (Cth) (TASA).
- (b) We are not “registered tax agents” (as defined in TASA).
- (c) We are not professionally qualified accountants, or licensed financial advisors.
- (d) Except for those BAS services which the Service Charter lists as an Available Service, we do not offer tax, professional accounting, or financial advice.
- (e) We do not accept responsibility to decide or advise you when it may be necessary or prudent for you to seek tax, accounting, or financial advice from other appropriately qualified professionals.

10.3 Technology

You agree that, to the maximum extent permitted by law, we will not be liable to you (or anyone acting on your behalf or with your consent) for any claim or liability whatsoever (including any consequential loss) arising due to or in connection with any technology we use when providing our services (including cloud computing).

10.4 Other

- (a) We make no warranty and give no guarantee that our services are or will be suitable for any particular purpose or for your specific intended purpose or that we will achieve any specific results or outcomes. You must rely entirely on your own enquiries, skill, experience, and expertise in this regard.
- (b) We do not accept responsibility for any consequences associated with inaccurate, untruthful, or incomplete information produced or supplied by you.
- (c) Your personal and business success, earnings, performance, customer/client load, and legal (including tax) compliance are your responsibility. Positive personal and business outcomes require effort, commitment, and action by you, not just by us. If you do not put in the effort, do not commit, or do not act appropriately and responsibly, you will not achieve your objectives. We do not accept responsibility for the consequences of any lack of effort or commitment by you, or any failure by you to act appropriately or responsibly.
- (d) From time to time, we may post testimonials from clients and people with experience of our services on our website and social media. These testimonials are a representation of experience and outcomes and not a guarantee that you will have the same experience or achieve the same or similar outcomes.

11. INTELLECTUAL PROPERTY

11.1 Both you and we shall always be and remain free to use, sell, and commercialise our respective pre-existing intellectual property rights, to each other’s absolute exclusion.

11.2 To the extent that we need to use any material provided by you to complete the provision of our services, you grant to, or must obtain for us the benefit of, a perpetual world-wide, royalty free, licence to use, reproduce, adapt, modify, and communicate that material for all relevant purposes.

11.3 You warrant that:

- (a) all material you will provide to us for use in connection with the provision of services will not infringe the intellectual property of any person; and

- (b) you have the necessary rights to vest the intellectual property and grant the licence provided in clause 11.2.
- 11.4 Unless agreed in writing otherwise:
- (a) we will own all material created or supplied to you by us (**Produced Material**) for the purposes associated with the provision of our services, including documents prepared while providing our services. For this purpose, 'created' means created, modified, adapted, produced, made, developed or similar.
 - (b) all rights in all Produced Material (including intellectual property rights) will immediately vest in us on creation, without payment of any compensation; and
 - (c) you consent to waive all moral rights in relation to all material.
- 11.5 We grant you a non-exclusive licence to use, reproduce, adapt, modify, and communicate Produced Material for the original purpose of creation, provided that:
- (a) you comply with your obligations to us in full and on time; and
 - (b) you acknowledge our ownership by notice affixed to every such reproduction, adaptation, modification, and communication.
- 12. DISPUTE RESOLUTION**
- 12.1 In this clause 6:
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| Mediation Rules | means the mediation rules from time to time approved by the Resolution Institute Limited ACN 008 651 232 or, in default of such approval, as agreed between you and us. |
| Negotiating Period | means, in relation to any given Dispute, the period which is twenty (20) Business Days from the day after the date by which the relevant Notice of Dispute has been served on all parties or such longer period as you and we may agree between us. |
- 12.2 If a party claims that a dispute has arisen directly or indirectly arising from, or in any way relating to, this Deed (**Dispute**) then:
- (a) the party claiming the Dispute must promptly issue notice to all other parties specifying the nature of the Dispute (**Notice of Dispute**); and
 - (b) no party may commence legal proceedings, including without limitation arbitral or regulatory proceedings, in relation to or connection with the Dispute, until clauses 6.3 and 6.4 have been fully complied with.
- 12.3 Immediately following issue of a Notice of Dispute you and we must endeavour in good faith to resolve the Dispute by negotiation as expeditiously as possible.
- 12.4 Subject to clause 12.5, if the Dispute has not resolved to the reasonable satisfaction of both you and us within the Negotiating Period:
- (a) and if Court/Tribunal proceedings are active at the time when the Dispute Notice issued you and we must co-operate to seek a referral to Court/Tribunal-annexed mediation at the earliest possible opportunity, continue negotiating towards resolution, and attempt to resolve the Dispute at the future mediation once ordered/arranged;
 - (b) otherwise, the Dispute must be referred to a mediator for mediation in accordance with, and subject to, the Mediation Rules.
- 12.5 Clause 12.4 shall not apply if all parties agree that the clause is not to apply to a given Dispute.

- 12.6 Unless you and we both agree otherwise, you and we must each continue to perform our respective obligations under the Contract Documents notwithstanding the existence of any Dispute.

13. PRIVACY & CONFIDENTIALITY

- 13.1 While providing our services, we will request and/or you may volunteer personal and organisation information such as:
- (a) basic contact information (for example names, contact numbers, email addresses, dates of birth etc) about you and other members of your household;
 - (b) revenue and expense figures;
 - (c) payroll information, including salaries;
 - (d) other financial information and records.
- 13.2 We may also discuss sensitive information (for example, tax file numbers, employee birth dates).
- 13.3 We may receive this information in writing or verbally; in person; or remotely such as by email, website, or phone.
- 13.4 Privacy is important to us. We manage information we receive by using common sense, reasonable access/security controls, and with due regard to our professionalism and other obligations under Australian Law.
- 13.5 We will take all reasonable steps to ensure that all personal and or sensitive information we hold is secure from any unauthorised access, misuse, or disclosure. However, we do not guarantee that unauthorised persons (for example, hackers or thieves) cannot access your personal information or that unauthorised disclosures will not occur.
- 13.6 You agree that we may share personal and organisational information with third parties for all purposes necessary or directly associated with provision of our services (for example, sharing website login details with our staff, sharing salary information with the ATO etc).
- 13.7 You authorise us to:
- (a) publish your plain text name and business images or logos for promotional purposes; and
 - (b) for the purposes of responding to client enquiries or to demonstrate our skill and expertise, disclose on a de-identified basis the general nature of the services we provided to you and the general background facts as well as any outcomes.
- 13.8 All lived examples we use for the purpose of training and points of reference will, except with prior consent, be de-identified.
- 13.9 We use cloud-based computing to run our business and deliver our services. We have decided that the advantages of this outweigh the disadvantages. We will assume, if you use our services, that you agree.
- 13.10 Please be aware that, despite the best efforts of many bright minds, no security controls are 100% effective and neither we nor the suppliers with whom we deal can or do promise that your information is and will always remain secure. You and we have mutual rights and responsibilities in relation to information security. The steps we take to ensure information security include:
- (a) We select and engage third party service providers who we believe provide reasonable administrative, technical, and physical security controls to protect our and your personal information.
 - (b) We install and maintain antivirus and similar protections on our local hardware.
 - (c) We create and maintain strong passwords.

- (d) Where practicable, we apply security controls (such as password protection and sometimes digital certificate encryption) to electronic documents and email communications.
 - (e) We keep copies of information to a minimum.
- 13.11 We are not responsible for privacy in relation to data you share with third parties, including data hosted by you in Software as a Service (SaaS) offerings such as Xero, MYOB, and QuickBooks. We recommend that you access and read the privacy policies and (where available) the terms and conditions of all suppliers with whom you chose to deal before you use their services. In our experience, most providers make these policies and terms publicly available.
- 14. MISCELLANEOUS**
- 14.1 You authorise us to contact you via any of the contact details provided. This may include phone and/or email.
- 14.2 You agree to keep us up to date with your physical and electronic address and contact details.
- 14.3 The relationship between you and us will be one of principal (you) and independent contractor (us). Except where we agree to be your agent in relation to the engagement of third parties (as contemplated by clause 4.2), no relationship of agencies will arise between you and us. We also are not your employee or partner.
- 14.4 The Standard Terms, Proposal Letter, and Service Charter (**Contract Documents**) constitute the entire agreement between you and us concerning our services. The only enforceable obligations and liabilities of you and us in relation to our services are those expressed in the Contract Documents or otherwise as are necessarily implied into our agreement by statute. Any prior representations, statements or promises in relation to our services are merged in and superseded by the Contract Documents and you expressly acknowledge that you have not relied on them.
- 14.5 The Contract Documents cannot be varied without our prior written consent.
- 14.6 You may not assign any of your rights or novate any of your obligations under the Contract Documents to any third party without our consent.
- 14.7 Any obligation imposed by the Contract Documents on more than one person and any covenant given in the Contract Documents by more than one person binds those persons jointly and each of them severally and may be enforced against any one or any two or more of them.
- 14.8 The Contract Documents shall be governed by and construed in accordance with the laws from time to time applying in the Australian Capital Territory (**Jurisdiction**). You and we each submit to the exclusive jurisdiction of the courts of the Jurisdiction except that your or we may, where available, also elect to commence action in a court or tribunal established under Commonwealth legislation.
- 14.9 If any provision of the Contract Documents is void, voidable by any party, unenforceable or illegal in any jurisdiction it shall be read down so as to be valid and enforceable or, if it cannot be so read down, the provision (or where possible the offending words) shall be severed from the Contract Documents without affecting the validity, legality or enforceability of the remaining provisions (or parts of those provisions) of the Contract Documents which will continue in full force and effect.