

# ACCOUNTING SERVICES GUIDE

This Accounting Services Guide (ASG) is designed to assist you in understanding the different types of services we offer.

The ASG contains information about:

- Who we are;
- How we can be contacted;
- What services we can provide to you;
- How we and any other relevant persons are remunerated; and
- Any of our associations or relationships that might be expected to influence our services



# Who We Are

HQB was established in 1955 and began trading as Allen C Hogbin Accountants and Auditors. In 1971, the firm became known as Hogbin, Tolhurst & Quinn to accommodate new partners and then later in 1978 as Hogbin, Quinn & Bentley coinciding with a move to the current premises in Park Avenue.

With 60 years under our belt, we hold long association with many Coffs Coast businesses and organisations. From humble beginnings, a solid reputation was forged of excellence in accounting, professional and business services which today remains the firm's cornerstone. Presently, HQB has wide spread operations with clients from Tasmania in the south to Cairns in far north Queensland and even overseas. Effective use of cutting edge technology makes this possible.

# How We Can Be Contacted

We have two conveniently located offices, our main office in Coffs Harbour and the other in Bellingen at client request.

Our Coffs Harbour office can be found at the top of the stairs in the HQB Centre Arcade on Park Avenue. However, we are access-friendly so if you require our ground floor meeting room please let us know when scheduling your appointment.

**Phone:** (02) 6652 2333

**Fax:** (02) 6651 2958

**Email:** [enquiries@hqb.com.au](mailto:enquiries@hqb.com.au)

**Postal Address:** PO Box 919, COFFS HARBOUR NSW 2450

## Coffs Harbour Office Address:

13-15 Park Avenue  
COFFS HARBOUR NSW 2450



## Bellingen Office Address:

5/87 Hyde Street  
BELLINGEN NSW 2454



# Basis of engagement

By engaging our services as your accountant, our role will include the preparation and compilation of your financial statements. While we will be reviewing these financial statements within our quality assurance standards, it is important to note that no independent audit will be carried out and as such, we will not be expressing any audit opinion.

In undertaking this engagement, it is understood that you will:

- Ensure the completeness of the information and documentation you provide us. Missing, unkept or unreconciled information will result in extra time taken to prepare your financial statements, and will ultimately effect the cost of our service.
- Be responsible for the maintenance of the accounting systems and internal controls for all the business entities, which includes the keeping and maintenance of all required books of account.
- Ensure that the source documentation will be available should the ATO request a review of any transaction.
- Provide all necessary documentation, including declarations, in a timely manner to allow for the preparation and lodgement of your tax return(s) before tax deadlines.
- Be responsible for any penalties you may incur for late lodgement or providing misleading or incorrect information including failure to disclose.

We will endeavour to ensure:

- That the returns are lodged by the due dates and will advise you at the beginning of the financial year when documentation should be provided to us.

The financial statements, tax returns and any other documents which we are specifically engaged to prepare, together with any original documents given to us by you, shall be your property. Any other documents brought into existence by us, including general journals, working papers, general ledger and copies of statements and returns will remain our property at all times. If our services are terminated, we shall be entitled to retain all documents you have provided to us until payment in full of all our outstanding fees.

## Your obligations & rights

The *Tax Agents Services Act* requires us to advise you of your rights and obligations where we are acting for you on taxation matters. In relation to the taxation services provided:

- You are subject to the self-assessment system in relation to any of your income tax returns. The Commissioner is entitled to rely on any statements made in your income tax returns. Where those statements are later found to be incorrect, the Commissioner may amend your income tax assessments and, in addition to any tax assessed, you may also be liable for penalties and interest charges.

- You have an obligation to keep proper records that will substantiate the income tax returns prepared and which will satisfy the substantiation requirements of the *Income Tax Assessment Act*. Failure to keep such records could result in claims being disallowed, additional tax being imposed, and the imposition of penalty or general interest charges.
- You are responsible for the accuracy and completeness of the particulars and information required to comply with the various taxation laws. We will use this information supplied in the preparation of your returns.
- Your rights as a taxpayer include:
  - The right to seek a private ruling;
  - The right to object to an assessment by the Commissioner;
  - The right to appeal against an adverse decision by the Commissioner.

Certain time limitations may exist for you to exercise these rights. Should you wish to exercise these rights at any time you should contact us so that we can provide you with the relevant time frames and to discuss any additional requirements which may exist.

This engagement will be effective for future years unless we advise you of its amendment or replacement, or the engagement is terminated.

# What Services We Can Provide To You

## Activity Statements

As Business Activity Statements (BAS) are prepared periodically and lodged during the financial year, it is not possible for this firm to review the correctness of the underlying financial information as part of the preparation of the quarterly/monthly BAS. This is because although we are engaged to prepare the annual financial statements, these are prepared at the conclusion of the financial year.

Therefore, for the BAS, we will rely on and process the financial information provided to us without further review of the primary source documents. In doing that, we will make the following specific assumptions:

- The financial information provided to us is accurate;
- The financial information correctly states the GST position;
- You have the necessary supporting documentation to satisfy the ATO for GST purposes; and
- You hold valid tax invoices and adjustment notes for all expenditure incurred by you in respect of which an input tax credit is being claimed.

It is possible however that, when the financial statements are prepared, some discrepancies will exist between the information disclosed in the BAS and in the annual financial statements.

Should any discrepancies arise, we will discuss the need to correct either the BAS and/or financial accounts and will notify you in writing of any adjustments that are required.

## Financial Statements

This firm has been engaged to prepare the annual financial statements of your business to facilitate the preparation of income tax returns for the entities in your group. This service includes the preparation of:

- A profit and loss statement
- A balance sheet
- Notes for the above accounts

This service includes maintenance of the chart of accounts for the general ledgers of your business entities. It also includes telephone support should you require any assistance as to how to record specific transactions in the general ledger. The preparation of one-off financial statements for presentation to your financiers or other purposes will be prepared on the same basis.

With respect to Company, Partnership and Trust accounts, we draw your attention to the annual declaration in which you confirm the accuracy of the financial statements and the solvency of the entity.

### **Interim Financial Statements**

We will on your request prepare periodic profit and loss statements and balance sheet reports (compared to budget forecasts if applicable). As these will be interim financial statements no reconciliation of asset and liability accounts will be performed nor will any detailed analysis of income and expense items take place unless specifically requested, which will be an additional service subject to fee negotiation.

### **Income Tax Returns**

We have been engaged to prepare and lodge income tax returns for you and if applicable, associated entities. In addition to the basic financial information required to complete these tax returns, our firm may prepare templates and schedules to assist with the collation of information to complete income tax returns. These will be provided free of charge.

### **Fringe Benefits Tax Returns**

The engagement of our services covers any review or calculation of FBT liability and the preparation and lodgement of an FBT return if required.

Our service includes advice on:

- How to collate the information necessary to prepare the annual FBT return;
- Advice on basic FBT issues; and
- Calculation of Reportable Fringe Benefits Tax Amounts that are to be included on the annual payment summaries for your employees.

### **Superannuation Fund**

Should you have a self-managed superannuation fund and engage us to attend to the compliance work for you, this assignment will involve:

- Preparation of the annual financial statements, including members' statements;
- Arranging to have the financial statements of the superannuation fund audited for the purposes of the Superannuation Industry Supervision Act (the SIS Act);
- Preparation of Member Contributions Statements; and
- Annual review of superannuation funding requirements.

You should also note, that the Deeds of the fund should be annually reviewed by a superannuation specialist to ensure they continue to comply with the requirements of the SIS Act.

Our engagement does not extend to the provision of legal advice and our fee does not include this service.

For financial planning services for the investments of the superannuation fund or any planning advice for your future retirement planning, refer to the Financial Services Guide (FSG) herewith.

### **Corporate Compliance**

We will act as registered agents for any Companies for which we are engaged. It is your obligation to ensure you advise us of any changes in particulars to your Company and it is your responsibility to maintain your corporate registers and records as required under Corporations Law. We can provide you with assistance in this regard on request.

### **Other Services and Advice**

We offer advice and assistance in a number of other areas including:

- Management Consulting
- Long Service Leave
- Land Tax
- Workers Compensation
- Contractor Taxable Payment Annual Reports
- ATO Liaison & Dispute Resolution
- Payroll Tax
- Audit of Financial Statements or Trust Accounts
- Cashflow & Business Plans
- Rural Subsidies & Assistance Schemes
- Business Valuation & Acquisition
- Profit Performance Monitoring
- Expert Reports
- Bookkeeping

# Other Matters

## Our fees

Our services will be billed as work progresses and are based on the time and degree of skill and acumen required to complete the task undertaken by us, including any direct out of pocket expenses. There will be a number of people within our team who will care for various parts of your file which include our professional time, processing, bookkeeping and administration. These fees will be charged at their respective rates, which are reviewed annually.

Partners	\$ 384.00
Accountant Managers	Ranging from \$ 189.60 to \$ 252.00
Accountants	Ranging from \$ 96.00 to \$ 189.60
Administration & other	Ranging from \$ 90.00 to \$174.00

In the event that any additional matters arise throughout the year and are beyond these normal arrangements we will address this before we undertake any significant part of the work. In this way you have certainty of your position.

## Confidentiality & Privacy

The conduct of this engagement, in accordance with the standards and ethical requirements of Chartered Accountants Australia and New Zealand (CAANZ), means that information acquired by us in the course of the engagement is subject to strict confidentiality requirements. By providing your personal information to us you acknowledge that this information, including your tax file number, may be shared with our staff, directors, employees, consultants or contractors who are used in the course of providing services to you. That information will not be disclosed by us to other parties except as required or allowed for by law or professional standards, or with your express consent. To ensure the quality services provided by the practice, CAANZ require that a review be undertaken approximately every 5 years. This entails an approved person (Quality Reviewer) having access to the practice's files to review compliance with professional standards. Should your files be selected for a review we will seek your consent before making any files available for the review.

# HQB Complimentary Audit Insurance Policy

HQB are pleased to advise you that since 1986 we have provided Complimentary Audit Insurance as part of our quality control process. This policy is designed to cover clients for what could be thousands of dollars in professional fees incurred as a result of an ATO audit, and offer peace of mind in knowing that maximum effort is dedicated to achieving the correct outcome.

The Audit process involves preparing you prior to the Auditor's attendance, holding interviews at HQB's office, and HQB staff being in attendance at all interview times to assist you.

To qualify for HQB's complimentary audit insurance:

- Our fees must be paid on time
- The information supplied to us must be correct
- The audit must relate to a document prepared and lodged by HQB
- Exclusion – Tax Audit arising from a Self-Managed Superannuation Fund Auditor Contravention Report

Providing the above conditions are met, HQB will not charge you for the time we spend attending to your ATO audit.

# HQB Debt Collection Policy

Our payment terms state that all invoices must be paid within 30 days from date of invoice.

If you are unable to settle your account in full, please contact our office to make an alternative arrangement.

Our available methods of payment are:

- Cash
- Cheque
- Direct Deposit
- Credit Card\*

If you do not settle your account within this timeframe, it will result in the following:

- Compound interest will be charged at 1% per calendar month
- Our complimentary Tax Audit will be revoked
- No further work will be undertaken until the account is paid in full, at which point, no work shall be carried out without pre-payment on account
- Your account will potentially be listed with an Australian Credit Reporting Agency Veda. If listed, the default will be visible on your credit file for five years. This default may adversely affect your ability to gain credit from other suppliers in the future.

\*HQB are charged an average 1.3% on all credit card transactions for Merchant Service Fees. Our policy is that if you wish to use your credit card to settle our account (and in accordance with current business trends) we will charge a processing fee of 1%.

# P.J CHAKOS & J.E DAVIS & I.D HOGBIN & THE TRUSTEE FOR DAVIS FAMILY TRUST & THE TRUSTEE FOR ID HOGBIN FAMILY TRUST & THE TRUSTEE FOR PJ CHAKOS FAMILY TRUST T/A HQB Chartered Accountants - Terms and Conditions of Trade

1. **Definitions**
- 1.1 "Firm" means P.J Chakos & J.E Davis & I.D Hogbin & The Trustee For Davis Family Trust & The Trustee For ID Hogbin Family Trust & The Trustee For PJ Chakos Family Trust T/A HQB Chartered Accountants, its successors and assigns, or any person acting on behalf of, and with the authority of P.J Chakos & J.E Davis & I.D Hogbin & The Trustee For Davis Family Trust & The Trustee For ID Hogbin Family Trust & The Trustee For PJ Chakos Family Trust T/A HQB Chartered Accountants.
- 1.2 "Client" means the person's requesting the Firm to provide the Services, as specified in the Letter of Engagement, or any order, invoice or other document, and if there more than one person requesting the Services, is a reference to each person jointly and severally.
- 1.3 "Services" means all Services provided by the Firm to the Client at the Client's request from time to time.
- 1.4 "Documentation" means any goods, documents, designs, drawings or materials supplied, consumed, created or deposited incidentally by the Firm in the course of it conducting, or providing to the Client, any Services.
- 1.5 "Fees" means the price payable for the Services as agreed between the Firm and the Client in accordance with clause 6 of this contract.
2. **Acceptance**
- 2.1 The Client is taken to have exclusively accepted and is immediately bound, jointly and severally, by these terms and conditions if the Client places an order for, or accepts, Services provided by the Firm.
- 2.2 These terms and conditions may only be amended with the Firm's consent in writing and shall prevail to the extent of any inconsistency with any other document or agreement between the Client and the Firm.
- 2.3 None of the Firm's agents or representatives are authorised to make any representations, statements, conditions or agreements not expressed by the manager of the Firm in writing nor is the Firm bound by any such unauthorised statements.
- 2.4 On completion of any Services the Firm will retain any documents for a period of seven (7) years, after which the documents will be destroyed, unless otherwise requested by the Client.
- 2.5 The Firm and the Client agree that both parties may communicate with each other electronically, and electronic signatures shall be deemed to be accepted by either party providing that the parties have complied with Section 9 of the Electronic Transactions Act 2000 or any other applicable provisions of that Act or any Regulations referred to in that Act. The Client acknowledges that electronic transmissions are inherently insecure, can be corrupted or intercepted, may not be delivered and may contain viruses. The Firm is not responsible to the Client for any loss suffered in connection with the use of e-mail as a form of communication with the Client.
3. **Change in Control**
- 3.1 The Client shall give the Firm not less than fourteen (14) days prior written notice of any proposed change of ownership of the Client and/or any other change in the Client's details (including but not limited to, changes in the Client's name, address, contact phone or fax number/s, or business practice). The Client shall be liable for any loss incurred by the Firm as a result of the Client's failure to comply with this clause.
4. **Services**
- 4.1 The Services shall be as described in the Letter of Engagement, provided by the Firm to the Client.
- 4.2 These terms and conditions are to be read in conjunction with the Firm's Letter of Engagement. If there are any inconsistencies between the documents, then the terms and conditions contained in the Letter of Engagement shall prevail.
5. **Client's Obligations**
- 5.1 The Client agrees to pay for the Services described in the Letter of Engagement.
- 5.2 The Client shall provide promptly to the Firm all reasonable and necessary assistance, including access to all information which the Firm considers to be relevant to the engagement, so as to enable the Firm to provide the Services. Furthermore, the Client shall update information provided by it to the Firm where there has been a material change to that information which affects the scope of performance by the Firm of the Services.
6. **Fees and Payment**
- 6.1 At the Firm's sole discretion:
  - (a) the Fees shall be as indicated on invoices provided by the Firm to the Client in respect of Services supplied; or
  - (b) the Firm's current Fees at the date of provision of the Services, as calculated according to the Firm's current pricing schedule; or
  - (c) the Firm's estimated Fees, which shall be indicated on the Firm's Letter of Engagement and is based on the information available to the Firm at that date. The Fees are an estimate only, and not a quotation, and are subject to change.
- 6.2 The Firm reserves the right to change the Fees in the event of a variation to the Services, which will be charged for on the basis of the rates specified in the Letter of Engagement or the Firm's current pricing schedule, and will be shown as variations on the invoice.
- 6.3 Time for payment for the Services being of the essence, the Fees will be payable by the Client on the date/s determined by the Firm, which may be:
  - (a) on completion of the Services; or
  - (b) by way of instalments/progress payments in accordance with the Firm's payment schedule; or
  - (c) thirty (30) days following the end of the month in which a statement is posted to the Client's address, or address for notices; or
  - (d) the date specified on any invoice or other form as being the date for payment; or
  - (e) failing any notice to the contrary, the date which is thirty (30) days following the date of any invoice given to the Client by the Firm.
- 6.4 Payment may be made by cash, cheque, bank cheque, electronic/on-line banking, credit card, or by any other method as agreed to between the Client and the Firm.
- 6.5 The Client authorises the Firm to retain in their possession a tax refund cheque until such time as any outstanding fees that are incurred by the Client as a result of the preparation by the Firm of tax refund documentation, have been paid in full by the Client.
- 6.6 Unless otherwise stated the Fees do not include GST. The Client must pay GST, without deduction or set off of any other amounts, at the same time and on the same basis as the Client pays the Fees. In addition, the Client must pay any other taxes and duties that may be applicable in addition to the Fees, except where they are expressly included in the Fees.
- 6.7 The Client shall not be entitled to set off against, or deduct from the Fees, any sums owed (or claimed to be owed) to the Client by the Firm, nor to withhold payment of any invoice because part of that invoice is in dispute.
7. **Provision of the Services**
- 7.1 Any time specified by the Firm for provision of the Services is an estimate only and the Firm will not be liable for any loss or damage incurred by the Client as a result of any delay. However, both parties agree that they shall make every endeavour to enable the Services to be provided at the time and place as was arranged between both parties. In the event that the Firm is unable to provide the Services as agreed solely due to any action or inaction of the Client then the Firm shall be entitled to charge a reasonable fee for re-providing the Services at a later time and date.
8. **Risk**
- 8.1 Irrespective of whether the Firm retains ownership of any Documentation, all risk for such items shall pass to the Client as soon as such items are delivered to the Client and shall remain with the Client until such time as the Firm may repossess the Documentation.
9. **Title**
- 9.1 The Client acknowledges and agrees that the Client's obligations to the Firm for the provision of the Services shall not cease, and ownership of any Documentation shall not pass, until:
  - (a) the Client has paid the Firm all amounts owing for the particular Services; and
  - (b) the Client has met all other obligations due by the Client to the Firm in respect of all contracts between the Firm and the Client.
- 9.2 Receipt by the Firm of any form of payment other than cash shall not be deemed to be payment until that form of payment has been honoured, cleared or recognised and until then the Firm's ownership or rights in respect of the Services, and this contract, shall continue.
- 9.3 It is further agreed that, until ownership passes in accordance with clause 9.1:
  - (a) the Client is only a Bailee of the Documentation and must return the Documentation to the Firm immediately upon request by the Firm;
  - (b) the Client shall not charge or grant an encumbrance over the Documentation nor grant nor otherwise give away any interest in the Documentation while they remain the property of the Firm.
10. **Personal Property Securities Act 2009 ("PPSA")**
- 10.1 In this clause financing statement, financing charge statement, security agreement, and security interest have the meaning given to them by the PPSA.
- 10.2 Upon assenting to these terms and conditions in writing the Client acknowledges and agrees that these terms and conditions constitute a security agreement for the purposes of the PPSA and creates a security interest in:
  - (a) all Documentation previously supplied (if any), or that will be supplied in the future, by the Firm to the Client; and
  - (b) all the Client's present and after acquired property being a charge, including anything in respect of which the Client has at any time a sufficient right, interest or power to grant a security interest in for the purposes of securing repayment of all monetary obligations of the Client to the Firm for Services – that have previously been provided and that will be provided in the future by the Firm to the Client.
- 10.3 The Client undertakes to:
  - (a) promptly sign any further documents and/or provide any further information (such information to be complete, accurate and up-to-date in all respects) which the Firm may reasonably require to;
    - (i) register a financing statement or financing charge statement in relation to a security interest in the Personal Property Securities Register;
    - (ii) register any other document required to be registered by the PPSA; or
    - (iii) correct a defect in a statement referred to in clause 10.2(a)(i) or 10.2(a)(ii);
  - (b) indemnify, and upon demand reimburse, the Firm for all expenses incurred in registering a financing statement or financing charge statement on the Personal Property Securities Register established by the PPSA or releasing any registration made thereby;
  - (c) not register a financing charge statement in respect of a security interest without the prior written consent of the Firm;
  - (d) not register, or permit to be registered, a financing statement or a financing charge statement in relation to the registration in favour of a third party without the prior written consent of the Firm.
- 10.4 The Firm and the Client agree that sections 96, 115 and 125 of the PPSA do not apply to the security agreement created by these terms and conditions.
- 10.5 The Client waives their rights to receive notices under sections 95, 118, 121(4), 130, 132(3)(d) and 132(4) of the PPSA.
- 10.6 The Client waives their rights as a grantor and/or a debtor under sections 142 and 143 of the PPSA.
- 10.7 Unless otherwise agreed to in writing by the Firm, the Client waives their right to receive a verification statement in accordance with section 157 of the PPSA.
- 10.8 The Client must unconditionally ratify any actions taken by the Firm under clauses 10.2 to 10.5.
- 10.9 Subject to any express provisions to the contrary (including those contained in this clause 10), nothing in these terms and conditions is intended to have the effect of contracting out of any of the provisions of the PPSA.
11. **Security and Charge**
- 11.1 In consideration of the Firm agreeing to provide Services, the Client charges all of its rights, title and interest (whether joint or several) in any land, realty or other assets capable of being charged, owned by the Client either now or in the future, to secure the performance by the Client of its obligations under these terms and conditions (including, but not limited to, the payment of any money).
- 11.2 The Client indemnifies the Firm from and against all the Firm's costs and disbursements including legal costs of a solicitor and own client basis incurred in exercising the Firm's rights under this clause.
- 11.3 The Client irrevocably appoints the Firm and each director of the Firm as the Firm's true and lawful attorney/s to perform all necessary acts to give effect to the provisions of this clause 11 including, but not limited to, signing any document on the Client's behalf.
12. **Defects, Warranties and the Competition and Consumer Act 2010 (CCA)**
- 12.1 The Client must inspect the Firm's Services on completion and must within seven (7) days notify the Firm in writing of any evident defect in the Services provided or of any other failure by the Firm to comply with the scope of the Services which the Firm was to provide (as specified in the Firm's Letter of Engagement). The Client must notify any other alleged defect in the Firm's Services as soon as it is reasonably possible after any such defect becomes evident. Upon such notification the Client must allow the Firm to inspect/review the Services that were provided.
- 12.2 Under applicable State, Territory and Commonwealth Law (including, without limitation the CCA), certain statutory implied guarantees and warranties (including, without limitation the statutory guarantees under the CCA) may be implied into these terms and conditions ("Non-Excluded Guarantees").
- 12.3 The Firm acknowledges that nothing in these terms and conditions purports to modify or exclude the Non-Excluded Guarantees.
- 12.4 Except as expressly set out in these terms and conditions or in respect of the Non-Excluded Guarantees, the Firm makes no warranties or other representations under these terms and conditions including, but not limited to, the quality or suitability of the Services. The Firm's liability in respect of these warranties is limited to the fullest extent permitted by law.
- 12.5 If the Client is a consumer within the meaning of the CCA, the Firm's liability is limited to the extent permitted by section 64A of Schedule 2.
- 12.6 If the Firm is required to rectify, re-provide, or pay the cost of re-providing the Services under this clause or the CCA, but is unable to do so, then the Firm may refund any money the Client has paid for the Services but only to the extent that such refund shall take into account the value of Services which have been provided to the Client which were not defective.
13. **Default and Consequences of Default**
- 13.1 Interest on overdue invoices shall accrue daily from the date when payment becomes due, until the date of payment, at a rate of one percent (1%) per calendar month (and at the Firm's sole discretion such interest shall compound monthly at such a rate) after as well as before any judgment.
- 13.2 If the Client owes the Firm any money the Client shall indemnify the Firm from and against all costs and disbursements incurred by the Firm in recovering the debt (including but not limited to internal administration fees, legal costs of a solicitor and own client basis, the Firm's contract default fee, and bank dishonour fees).
- 13.3 Other than any other rights or remedies the Firm may have under this contract, if the Client has made payment to the Firm by credit card, and the transaction is subsequently reversed, the Client shall be liable for the amount of the reversed transaction, in addition to any further costs incurred by the Firm under this clause 13 where it can be proven that such reversal is found to be illegal, fraudulent or in contravention to the Client's obligations under this contract.
- 13.4 Without prejudice to any other remedies the Firm may have, if at any time the Client is in breach of any obligation (including those relating to payment) under these terms and conditions the Firm may suspend or terminate the provision of Services to the Client. The Firm will not be liable to the Client for any loss or damage the Client suffers because the Firm has exercised its rights under this clause.
- 13.5 Without prejudice to the Firm's other remedies at law the Firm shall be entitled to cancel all or any part of any order of the Client which remains unfulfilled and all amounts owing to the Firm shall, whether or not due for payment, become immediately payable if:
  - (a) any money payable to the Firm becomes overdue, or in the Firm's opinion the Client will be unable to make a payment when it falls due;
  - (b) the Client becomes insolvent, commences a meeting with its creditors or proposes or enters into an arrangement with creditors, or makes an assignment for the benefit of its creditors; or
  - (c) a receiver, manager, liquidator (provisional or otherwise) or similar person is appointed in respect of the Client or any asset of the Client.
14. **Use of Reports and Advice**
- 14.1 Any advice that the Firm gives to the Client, its employees or agents is for the Client's exclusive use and must be used only for the purpose described in the Letter of Engagement.
- 14.2 Unless the Firm gives the Client prior written consent, the advice:
  - (a) must not be used or disclosed for any other purpose, referred to in any document or made available to any other person, except the Client's lawyers, banks, financiers or other professional advisors assisting in the Services; and
  - (b) may not be relied upon by any other party other than the Client.
- 14.3 The Firm is not responsible to any other party other than the Client, who is provided with or obtains a copy of the Firm's advice.
- 14.4 The Firm's advice may, on occasion, be given to the Client in draft form or orally only on the basis that the Client may not rely on advice in that form. Accordingly, the Firm shall not be responsible if the Client or any other party relies on the advice or chooses to act, or refrains from acting, on the basis of any draft advice or oral comments or advice.
- 14.5 The Client acknowledges that the signed copy of the Firm's final advice is the definitive version.
- 14.6 Sometimes circumstances may change after the Firm has provided their final advice to the Client. If this happens the Firm will not update any final advice, it has provided to the Client under these terms and conditions. If the Client would like the Firm to update their final advice, they must contact the Firm and both parties can discuss a suitable term of engagement with the Client.
15. **Confidentiality / Intellectual Property**
- 15.1 Both the Client and the Firm agrees to treat all information and ideas communicated to it by the other confidentially and agree not to divulge it to any third party, without the other party's written consent. The parties will not copy any such information supplied, and will either return it or destroy it (together with any copies thereof) on request of the other party.
- 15.2 Exceptions to clause 15.1 will be disclosures to legal advisers, disclosures required by law, and disclosures necessary for the proper performance of the Services.
- 15.3 Where the Firm has developed software, spreadsheets, training materials, databases, proposals, tender documents and other electronic tools ("Tools") in providing the Services for the Client, then the copyright in the Tools shall remain vested in the Firm, and shall only be used by the Client at the Firm's discretion.
- 15.4 The Client's software, spreadsheets, databases, electronic tools or instructions provided by the Client to the Firm will not cause the Firm to infringe any patent, registered design or trademark in the execution of the Client's order and the Client agrees to indemnify the Firm against any action taken by a third party against the Firm in respect of any such infringement.
- 15.5 Whether the Firm or the Client retains the copyright in relation to Tools which are specifically developed for the Client shall be as is agreed, recorded in writing, and signed by both parties to this contract.
16. **Cancellation**
- 16.1 The Firm may cancel any contract to which these terms and conditions apply, or cancel the provision of Services at any time before the Services have commenced, by giving written notice to the Client. On giving such notice the Firm shall repay to the Client any money paid by the Client for the Services. The Firm shall not be liable for any loss or damage whatsoever arising from such cancellation.
- 16.2 In the event that the Client cancels this contract, or the provision of the Services by the Firm, the Client shall be liable for any and all loss incurred (whether direct or indirect) by the Firm as a direct result of the cancellation (including, but not limited to, any loss of profits).
17. **Privacy Act 1988**
- 17.1 The Client agrees for the Firm to obtain from a credit reporting body (CRB) a credit report containing personal credit information (e.g. name, address, D.O.B, occupation, previous credit applications, credit history) about the Client in relation to credit provided by the Firm.
- 17.2 The Client agrees that the Firm may exchange information about the Client with those credit providers and with related body corporates for the following purposes:
  - (a) to assess an application by the Client; and/or
  - (b) to notify other credit providers of a default by the Client; and/or
  - (c) to exchange information with other credit providers as to the status of this credit account, where the Client is in default with other credit providers; and/or
  - (d) to assess the creditworthiness of the Client including the Client's repayment history in the preceding two (2) years.
- 17.3 The Client consents to the Firm being given a consumer credit report to collect overdue payment on commercial credit.
- 17.4 The Client agrees that personal credit information provided may be used and retained by the Firm for the following purposes (and for other agreed purposes or required by):
  - (a) the provision of Services; and/or
  - (b) analysing, verifying and/or checking the Client's credit, payment and/or status in relation to the provision of Services; and/or
  - (c) processing any payment instructions, direct debit facilities and/or credit facilities requested by the Client; and/or
  - (d) enabling the collection of amounts outstanding in relation to the Services.
- 17.5 The Firm may give information about the Client to a CRB for the following purposes:
  - (a) to obtain a consumer credit report;
  - (b) allow the CRB to create or maintain a credit information file about the Client including credit history;
- 17.6 The information given to the CRB may include:
  - (a) personal information as outlined in 17.1 above;
  - (b) name of the credit provider and that the Firm is a current credit provider to the Client;
  - (c) whether the credit provider is a licensee;
  - (d) type of consumer credit;
  - (e) details concerning the Client's application for credit or commercial credit (e.g. date of commencement/termination of the credit account and the amount requested);
  - (f) advice of consumer credit defaults, overdue accounts, loan repayments or outstanding monies which are overdue by more than sixty (60) days and for which written notice for request of payment has been made and debt recovery action commenced or alternatively that the Client no longer has any overdue accounts and the Firm has been paid or otherwise discharged and all details surrounding that discharge (e.g. dates of payments);
  - (g) information that, in the opinion of the Firm, the Client has committed a serious credit infringement;
  - (h) information that the amount of the Client's overdue payment is equal to or more than one hundred and fifty dollars (\$150).
- 17.7 The Client shall have the right to request (by e-mail) from the Firm:
  - (a) a copy of the information about the Client retained by the Firm and the right to request that the Firm correct any incorrect information; and
  - (b) that the Firm does not disclose any personal information about the Client for the purpose of direct marketing.
- 17.8 The Firm will destroy personal information upon the Client's request (by e-mail) or if it is no longer required unless it is required in order to fulfil the obligations of this contract or is required to be maintained and/or stored in accordance with the law.
- 17.9 The Client can make a privacy complaint by contacting the Firm via e-mail. The Firm will respond to that complaint within seven (7) days of receipt and will take all reasonable steps to make a decision as to the complaint within thirty (30) days of receipt of the complaint. In the event that the Client is not satisfied with the resolution provided, the Client can make a complaint to the Information Commissioner at [www.oaic.gov.au](http://www.oaic.gov.au).
- 17.10 The Firm undertakes to maintain strict confidentiality over the Financial Statements and records in the Firm's possession (including diary notes, working papers, etc.), which must not be delivered to any other person without the prior consent of the Client excepting by process of law.
18. **Lien**
- 18.1 Where the Client has left any of the Client's documentation with the Firm for the Firm to provide any Services in relation to that documentation and the Firm has not received or been tendered the whole of the Fees, or the payment has been dishonoured, the Firm shall have:
  - (a) a lien on the documentation; and
  - (b) the right to retain the documentation whilst the Firm is in possession of the documentation until such time as payment has been made in full; and
  - (c) the lien of the Firm shall continue despite the commencement of proceedings, or judgment for the Fees having been obtained; and
  - (d) the Firm shall be under no obligation to release the documentation to the Client if the Client is in default of payment except as may be required by any law or statute.
19. **Liability Limitations**
- 19.1 Except as is specified in clause 12, the liability limitations of the Firm, its partners, associates, and employees shall exclude any indirect loss and/or expense (including loss of profit) suffered by the Client arising out of a breach by the Firm of these terms and conditions.
- 19.2 The Client agrees, to the extent permitted by law, that the liability to the Client of the Firm, its partners, associates and employees or contractors in any way arising from or connected with this engagement including, without limitation, liability for negligence, shall be limited to damages which under no circumstances shall exceed the Limited Liability Scheme (under the Professional Standards Legislation) under which the Firm subscribes to. However, this Scheme does not apply to limit the Firm's liability arising out of the death of or personal injury to a person, negligence or other fault of a legal practitioner in acting for a client in a personal injury claim, breach of trust, fraud or dishonesty or liability which is the subject of proceedings under the Real Property Act 1900. These exceptions are not exhaustive, and may include other situations, such as members not meeting the requirements of the applicable Professional Standards Legislation, or the Scheme itself being a non-disclosure of the limitation of liability, etc.).
- 19.3 The Client agrees (to the extent permitted by law) to indemnify the Firm, its partners, associates, employees and any other person who may be sought to be made liable in excess of the limit of liability described in clause 19.2 in respect of any activity arising from or connected with these terms in respect of any claim of whatever kind, including negligence, that may be made by any person and any costs and expenses that may be incurred by the Firm.
20. **Complaint Procedures**
- 20.1 It is the Firm's aim to obtain, either formally or informally, a regular assessment of the Firm's performance, and the Client's service partner will always be pleased to hear any suggestions as to how our service can be improved. If the Client wishes to make a complaint, they may call or write to the Firm's Office Manager at PO Box 919, Coffs Harbour NSW 2450. If the Client is dissatisfied with the way any complaint is handled, they may report the matter to Australian Competition and Consumer Commission (ACCC) or any applicable regulatory body.
21. **General**
- 21.1 The failure by the Firm to enforce any provision of these terms and conditions shall not be treated as a waiver of that provision, nor shall it affect the Firm's right to subsequently enforce that provision. If any provision of these terms and conditions shall be invalid, void, illegal or unenforceable the validity, existence, legality and enforceability of the remaining provisions shall not be affected, prejudiced or impaired.
- 21.2 These terms and conditions, and any contract to which they apply, shall be governed by the laws of New South Wales, the State in which the Firm has its principal place of business, and shall be subject to the jurisdiction of the courts in that State.
- 21.3 The Firm may license or sub-contract all or any part of its rights and obligations without the Client's consent.
- 21.4 The Client agrees that the Firm may amend these terms and conditions at any time. If the Firm makes a change to these terms and conditions, then that change will take effect from the date on which the Firm notifies the Client of such change. The Client will be taken to have accepted such changes if the Client makes a further request for the Firm to provide Services to the Client.
- 21.5 Neither party shall be liable for any default due to any act of God, war, terrorism, strike, lock-out, industrial action, fire, flood, storm or other event beyond the reasonable control of either party.
- 21.6 The Client warrants that it has the power to enter into this contract and has obtained all necessary authorisations to allow it to do so, it is not insolvent and that this contract creates binding and valid legal obligations on it.