

NOLANS MASTER TERMS OF BUSINESS

These Master Terms of Business ("the Terms") together with any engagement letter and any fee estimate sent to the client ("you" or "your") form the initial Contract between **NOLANS** ("Nolans", "we", "us", or "our") and you.

Unless otherwise agreed in writing, any subsequent services performed by **NOLANS** will be provided by us on the basis of the Terms.

- 1 **Services.** We will provide the services specified in any initial engagement letter or, as subsequently agreed and set out, in any replacement or supplementary engagement letter ("the Services"). The Services may include advice and recommendations, but it is understood and agreed that all decisions in connection with the implementation of the advice and recommendations are your responsibility and must be made by you. Unless implementation is specified in the engagement letter, we shall not be liable in any way in this regard. Each party may request changes to the Services. Each party will work with the other to enable both parties to assess the impact of any requested changes on the cost, timing or any other aspect of the Services.
- 2 **Information.** You will provide in a candid, full and timely fashion all information and documents reasonably required to enable us to provide the Services. Unless otherwise required pursuant to the engagement, we will have no responsibility to independently verify the accuracy of any information and documents supplied by you. We will not be liable for any loss or damage arising from any inaccuracy, incompleteness or other defect in any information or documents supplied by you.
- 3 **Workpapers.** The workpapers produced by us in the course of our work in providing the Services are the property of **NOLANS**. We shall be entitled to retain our work papers and copies of any documents provided to us in the course of performing the Services. Work papers will also include documents or deeds relevant to your affairs although not necessarily relevant to the Services.

On providing the Services we will open a file. The file retained by us will be stored and kept for at least six years from the date our engagement ends. After that period of time or earlier if we have converted the file to electronic format the file may at our sole discretion be destroyed. If you send to us any papers which ultimately form part of that file which are to be returned to you, please be sure to advise us accordingly at the time these are supplied. Electronic files may be deleted at our sole discretion after 6 years from the date our engagement ends.

In respect of deeds or documents, we reserve the right to retain those deeds and documents until all monies due for costs, office services or disbursements are paid. We require this right to retain deeds and documents even if the monies are due for services unrelated to those documents. Our position in this regard is contrary to the usual common law position which would otherwise exist.

- 4 **Health and Safety.** The Health and Safety in Employment Act 1992 obliges us to take all practical steps to ensure the health and safety of our staff engaged on any assignment. Both Nolans and you are mutually responsible to ensure the safety of our staff and to see no harm is caused to them in your workplace. You shall ensure that the Act is fully complied with when our personnel visit your sites. Contact with your health and safety representative could involve a safety briefing at the beginning of the assignment, regarding work hazards which our staff may be exposed to on your site, management of the hazards, provision of any appropriate equipment, awareness of accident reporting procedures and emergency procedures.
- 5 **Reporting.** We will report to you in accordance with the terms set out in the engagement letter.
- 6 **Fees and Payment.**
 - a) Either before or after the commencement of the Services, or on any change in the Services we may, at our discretion, or will, if so required by you, provide an estimate and/or agree with you the total fees for the Services.
 - b) All fees charged will be based on the New Zealand Law Society requirement that all professional fees shall be fair and reasonable having regard to your and our interests. Such fees will be paid by you.
 - c) You acknowledge that in determining what constitutes fair and reasonable fees having regard to the interests of both you and us, a number of factors will be taken into account including not only the amount of time devoted by our partners and staff to the Services, but any urgency involved, the amount or value of the money or property involved, the degree of complexity and resulting skill required, the results achieved and any other criteria that are relevant.
 - d) You will pay all out of pocket expenses reasonably incurred by us in performing the Services.
 - e) In the case of most property, loan, commercial or other transactions where there is a specific settlement date, all fees and expenses must be paid not later than the settlement date. You authorise the deduction of all fees and expenses from the proceeds of any loan advance or sale proceeds or other monies which may be received or held to your credit within **NOLANS** Trust Account.

- f) Regardless of the nature or type of Services being provided to you, we reserve the right to render interim accounts in respect of which, the provisions of paragraph 6(g) shall apply.
- g) Fees and expenses may be billed monthly unless otherwise agreed, and will be payable by the 20th of the month following the billing date.
- h) In default of payment when required, you undertake to pay late payment fees of 16% per annum on any amount outstanding and to indemnify us and pay all costs and expenses if legal action is necessary to recover from you any overdue amount. We may at our discretion require funds to be paid on account before we incur out of pocket expenses.
- i) Failure to pay fees on time may, at our discretion, lead to suspension of the Services (including our right to refuse to settle a property, loan, commercial or other transaction), or termination of the engagement. All reasonable fees up to suspension or termination shall be and remain payable by you, notwithstanding the suspension or termination.

- 7 **Terms and Termination.** The Contract will continue until all the Services have been provided unless sooner terminated by agreement as set out below. Either party may terminate the Contract by written notice or if the other party fails to remedy a material breach of the Contract. Termination will not affect your obligations to pay our fees for all Services performed up to termination. Any of the terms and conditions of the engagement letter or the Terms that are intended to apply after completion of the Services will continue to apply following termination.
- 8 **Confidentiality.** We will not disclose to third parties any confidential information relating to the Services unless either authorised by you or compelled by law, or as is necessary to provide the Services.
- 9 **Indemnity.** In the event we become involved in any claim (including actual or threatened litigation of whatever form) in relation to the Services, we will immediately notify you. You agree, to the extent permitted by law, to indemnify us, our Partners and employees in all respects including our reasonable costs and expenses involved in defending any such actual or threatened litigation. Where legal counsel is retained for these purposes, those costs, will be met by you. We will use our best endeavours to agree the quantum of any such costs recognising the need to respond to such litigation on a prompt and reasonable basis. You agree to meet our costs for reasonable time incurred by our Partners and staff and any other reasonable costs and expenses in relation to any inquiry or proceeding initiated by any person.
- 10 **Restrictions.** Unless we have agreed in writing, no advice or information provided to you is to be made available, directly or indirectly to any third party, or shall be used or relied upon by any third party. We will have no liability to any third party. You indemnify us against any third party claim arising from its release of our advice or information.
- 11 **E-mail.** While we use standard virus checking software, we accept no responsibility for viruses or anything similar in any emails or any attachments which come from us. We also do not accept any responsibility for any changes to, or interception of, any email or any attachment after it leaves our information systems.
- 12 **No Assignment or Benefit.** You may not assign the benefit of the Services to any third party without our written consent. For the avoidance of doubt, you are the sole beneficiary of the Services under this Contract. No other party is intended to take a benefit under the Contracts (Privity) Act 1982.
- 13 **Guarantee.** Instructions from time to time may be taken from companies or other corporate bodies and/or family trusts and/or third party individuals at your request. In such instances these Terms will apply to the receipt of those instructions and you unconditionally guarantee to us the performance of all obligations expressed or implied in these terms.
- 14 **Investment.** From time to time we may receive on your behalf various funds and unless otherwise instructed, or the quantum of the funds retained is so minimal as to not warrant investment, all funds will be deposited to your credit in an interest bearing deposit account within **NOLANS** Trust Account. All interest accrued less usual Resident Withholding Tax and Accounts Department handling commission, at a rate of 5% of gross interest accrued, will be for your credit. We will at the time all funds are released to you provide a statement identifying the sum of all interest received and any deductions made.
- 15 **Entire Agreement.** The Contract described in these Terms, subject to any qualification, conditions, assumptions and reservations set out in any report, forms the entire agreement between you and us. No previous discussions, proposals, correspondence, understandings or other communications, whether written or oral, has contractual effect subsequent to the engagement letter. Only written variations signed on our behalf may vary the Contract.
- 16 **Governing Law.** The Contract and your relationship with us is governed by the applicable laws of New Zealand and both parties submit to the exclusive jurisdiction of the New Zealand Courts.