

## Terms of Business

These Terms of Business apply, together with the Engagement Letter or proposal (as the context requires), to all services ("Services") provided by Slvd Pty Ltd ("Slvd" or "we" or "us") in the Engagement Letter to the client named in the Engagement Letter ("Client" or "you").

### 1 Authorisations

Each of Slvd and the Client represent and warrant that it has obtained all necessary authorisations to enter into and perform this contract ("Contract").

### 2 Confidentiality

2.1 For the purposes of this Contract, "**Confidential Information**" means all information, regardless of medium, expressed to be, or inherently by nature, confidential or commercially sensitive which you disclose to us in connection with the Services 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 Slvd starting to provide 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.

2.2 Slvd will not disclose Confidential Information without your other's consent.

2.3 Notwithstanding clause 2.2, you authorise Slvd to disclose Confidential Information:

- (a) to your authorised agents and representatives in the provision of the Services; or
- (b) to other entities within the Slvd Group in the provision of the Services or to assist in quality assurance reviews or for business purposes.

2.4 We may disclose Confidential Information to:

- (a) our 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.

2.5 We may describe the services and the performance of the Services to third parties as an indication of our experience as long as the Client remains unlikely to be identified.

### 3 Intellectual property

3.1 Unless otherwise specified in the Engagement Letter or proposal, all intellectual property rights in all documentation, designs, concepts, systems, materials, methodologies and processes brought to the engagement by Slvd or created by Slvd in the course of the engagement shall remain or be immediately assigned and vest in Slvd. You shall do all things and sign all documents necessary to assign such intellectual property rights to Slvd.

3.2 Subject to clause 2, Slvd will not be restricted by the Contract from developing and using in the future any techniques, methodologies, ideas, concepts, information or general know-how.

3.3 Except as permitted by clause 5.1, you must not use any Slvd Group name or logo on any website 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 our prior written consent.

3.4 The working papers for this engagement, including electronic documents and files, remain at all times our property.

### 4 Performance of the Services

4.1 To perform the Services successfully, we require your timely co-operation, including:

- (a) providing in a timely fashion all information and documents that we reasonably require to enable us to provide the Services and (if stated in your instructions, our proposal, or our Engagement Letter) your staff to work with us;
- (b) arranging access to third parties where applicable;
- (c) ensuring that appropriate back-up, security and virus checking procedures are in place for any computer facilities you provide;
- (d) where appropriate, making senior executives available for consultation on request;
- (e) providing reasonable working facilities for us; and
- (f) making decisions promptly to facilitate the performance of the Services.

4.2 Unless both parties agree otherwise in writing, 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. The timely completion of the Services requires your co-operation in the provision of information and explanations relevant to the Services. Estimates of time for completion of the Services are given on the assumption that we receive this co-operation. We may charge additional fees and expenses which reasonably result from delays in providing this co-operation.

4.3 The scope of the Services is limited solely to the work specified in our proposal or Engagement Letter or otherwise agreed between you and us in writing. Unless expressly stated otherwise in the Engagement Letter, the Services are not legal or [tax] advisory services and do not constitute such advice. Either of us may request changes to the Services but no changes take effect unless agreed in writing.

4.4 Our work will be based on the documentation and information provided to, or obtained by, us. We rely on you bringing to our attention any changes in the documentation and information as originally presented, as it may affect our advice. You will ensure that documentation and 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. Unless otherwise stated in our Engagement Letter or proposal, we will not verify the accuracy and completeness of such documentation or information.

4.5 In the course of providing the Services, we may provide oral comments or draft reports, presentations, letters, schedules and other documents ("**Preliminary Advice**"). You may not rely on any Preliminary Advice which is not formalised as being final and we will not be liable for any loss you suffer as a result of relying on any such advice.

4.6 Changes in the law may take place before our advice is acted upon or may be retrospective in effect. Unless specifically stated in the Engagement Letter, or proposal we accept no responsibility to inform you of changes in the law or interpretations affecting advice previously given by us.

### 5 Electronic presentation and filing of information

5.1 If the Services involve statutory audit or statutory review work, and you intend to electronically present a financial report and our audit/review report on your web site, you are responsible for the security and controls over the information on the web site to maintain the integrity of the data presented.

## 6 Liability

- 6.1 Slvd will use reasonable skill and care in providing the Services.
- 6.2 The liability of Slvd for loss or damage arising out of or in relation to the Services and the Contract, howsoever arising including, without limitation, breach of contract, representation, condition, warranty, guarantee or tort, is limited to a maximum of 20% of the fees paid by you for the Services in the previous 12 month period. ("**Liability Cap**").
- 6.3 However, the Liability Cap does not apply to the extent prohibited or restricted by any applicable law.
- 6.4 To the extent permitted by law, Slvd excludes all liability for any indirect, incidental or consequential expense, loss, damages or cost, loss of profits or revenue, business interruption, loss of data, or failure to realise anticipated savings or benefits whatsoever incurred by, or awarded against, the Client (whether or not Slvd has been advised of the possibility of such expense, loss, damage or costs) arising in any way out of or in relation to the Services.
- 6.5 You agree that if you make any claim against us for loss arising out of or in connection with the Services or this agreement, and you contribute to that loss by your own actions, liability for your loss will be apportioned having regard to the respective responsibility for the loss, and the amount you may recover from us if successful in your claim will be reduced to the extent of your contribution to that loss.
- 6.6 You agree to indemnify and hold harmless each entity within the Slvd Group and their respective partners, directors and employees from and against any liabilities, losses, claims, costs, damages or expenses (or actions that may be asserted by any third party) that may result from any third party claims arising out of or in relation to the provision of the Services or any use by you of any deliverable under this Contract, and will reimburse the Slvd Group for all costs and expenses (including legal fees on an indemnity basis) incurred by it in connection with any such action or claim. This indemnity does not apply to the extent that it is not permitted by law.
- 6.7 You accept and acknowledge that 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 provision of the Services.
- 6.8 To the extent permitted by law, you agree not to bring any claim (whether in contract, tort (including negligence) or otherwise) arising out of or in connection with the Services against any of our employees or contractors personally, but this will not limit or exclude any liability we may have for their acts or omissions. The provisions of this clause are expressly for the benefit of our employees or contractors, and you agree that each employee is entitled to rely on this clause as if they were parties to this Contract.

## 7 Fees and expenses

- 7.1 Our fees for the Services will be charged on the basis set out in our Engagement Letter or proposal. Where applicable, Goods and Services tax ("**GST**") at the prevailing rate will be added to and form part of our fees.
- 7.2 We will charge you for our reasonable out-of-pocket expenses such as travel, subsistence incurred in connection with the Services. The charges will be calculated as the amounts we incur (net of any GST input tax credit to which we are entitled) plus GST as applicable.

- 7.3 Unless otherwise specified in our Engagement Letter, fees and expenses will be invoiced monthly in advance and are payable within 7 days after date of issue the invoice. We may charge you interest at a rate of 12 percent per annum on a compounding basis on any overdue invoice. Any fee estimate is given in good faith but is not contractually binding.
- 7.4 We revise our fee scale six monthly. Rates quoted to you remain in force until the next 31 December or 30 June, as applicable, and we may increase our fees for any work performed after those dates by providing you with written notice of such increase. If you continue to engage our Services after receiving notice of an increase in our fees, you will be deemed to have accepted our increased fees.
- 7.5 Unless agreed otherwise, your obligation to pay us fees and expenses will not arise until we have issued a fee account to you. Where an amount for GST is stated to be a component of the fees and expenses, our fee account will be a compliant "tax invoice" for GST purposes.
- 7.6 If, based on the information available to us, including representations made by you, we have assessed that no GST should be payable in respect of the Services, goods or other items we agree to supply under this engagement, our fee or hourly rates and, where applicable, out-of-pocket expenses and other expenses ("**Billings**") will be calculated on this basis. If we change our assessment or if the Australian Taxation Office assesses that GST is payable, then it will be added to and form part of our Billings at the prevailing GST rate. We reserve the right to recover from you at any time, any GST payable by us on the provision of the Services, goods or any other items supplied to you under this engagement.
- 7.7 Where you dispute all or part of an invoice, you and we each agree to seek to resolve the dispute under clause 15.8. Where 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.
- 7.8 If we receive any legally enforceable notice or demand issued by any third party in connection with the Services, including the Australian Securities & Investments Commission, the Australian Taxation Office, the Australian Stock Exchange, any government statutory body or instrumentality or 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 on an indemnity basis) 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) in the event that we receive any such legally enforceable notice or demand.

## 8 Services solely for Client benefit

The Services will be provided solely for your benefit and use unless provided otherwise in the Engagement Letter or proposal and on the bases set out in the Engagement Letter or Proposal. No other person or entity may rely on the Services, our professional advice or work product in any respect. We accept no liability or responsibility to any third party in respect of the Services.

## 9 Use of software

We may use or develop software, including spreadsheets, databases and other electronic tools ("**Tools**") in providing the Services. If we provide these Tools to you, you acknowledge that (except where these tools are a specific deliverable under our Contract with you) they are not your property, were developed for our purposes and without consideration of any purpose 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. We own the intellectual property rights to such Tools and clause 3 applies to any developed Tools. 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.

## **10 Electronic communications**

We may communicate with you electronically. 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. We will use commercially reasonable procedures to check for the then most commonly known viruses before sending information electronically, but we 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. You remain responsible for protecting your own systems and interests in relation to electronic communications. If you do not accept these risks, you should notify us in writing that you do not want us to communicate electronically with you.

## **11 Documents**

Subject to any statutory provisions to the contrary, it is our practice to destroy documents belonging to us after they are more than seven years old. Your acceptance of these terms includes your consent for us to destroy any documents that belong to you which have been filed amongst our own papers.

You agree that the above data retention arrangements are acceptable for your purposes.

## **12 Subcontractors and third parties**

12.1 We reserve the right to employ subcontractors, and any reference to our staff includes subcontractor staff.

## **13 Privacy of personal information**

13.1 You agree that you will only disclose personal information (as that term is defined under the Privacy Act 1988 (Cth) ("Privacy Act") to us if necessary for us to perform the Services, and only if such disclosure by you will not infringe protections afforded by the Privacy Act to individuals about whom the personal information relates. You warrant and represent to us that you have all necessary authorisations and approvals to disclose, and for us to use, such personal information in the provision of the Services

13.2 If the performance of the Services requires a third party to this Contract to supply personal information to us on your request, it is your obligation to 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. You warrant and represent to us, on behalf of the third party, that you have all necessary authorisations and approvals to disclose, and for us to use, such information in the provision of the Services.

13.3 If the Services require Slvd to collect personal information from a third party you will ensure that such collection of personal information complies with the Privacy Act, and you will do and be responsible for, all things necessary (including obtaining appropriate consents) for Slvd to collect such personal information. You agree to obtain, as our agent, all necessary authorisations and approvals required for us to collect and use such personal information in the provision of the Services

13.4 If personal information is disclosed to us in the course of our engagement, it will be treated in accordance with the Privacy Act and the terms of our privacy policy.

## **14 Term and termination**

14.1 This Contract will apply from the commencement date stated in our proposal or Engagement Letter, or where no commencement date is specified, from the date of acceptance of the Contract as specified in our proposal or Engagement Letter.

14.2 Subject to any statutory provisions that apply to the Services, either party may terminate this Contract at any

time by giving at least 30 days written notice to the other. 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 by you for cause, you will pay our reasonable costs and expenses incurred in connection with the termination of the Contract.

14.3 For the avoidance of doubt, the date of termination shall be the date on which any period of notice expires.

14.4 On termination or completion of this Contract, we may retain our working papers and documentation or software prepared by us and any other documentation on which our Services are based to enable us to maintain a professional record of our involvement. You may retain your originals and any copies of our reports and letters made in accordance with the provisions of this Contract.

14.5 Termination of the Contract shall be without prejudice to any accrued rights of both parties.

14.6 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.

## **15 General**

### **15.1 Slvd engagement team**

We will use reasonable efforts to ensure that individuals named in our proposal or Engagement Letter are available to perform the Services. If we are unable to do this we will provide you with details of replacement staff.

### **15.2 Relationship with other clients**

We provide services to other clients, some of whom may be in competition with you or have interests which conflict with your own. We will not be prevented or restricted by virtue of our relationship with you under this Contract from providing services to other clients.

### **15.3 Our relationship with you**

You acknowledge and agree that our relationship with you is that of an independent contractor and is not a partnership, joint venture, fiduciary or employment relationship. Neither of us 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.

### **15.4 Waiver**

A failure or delay by a party in exercising a power or right given to it under this Contract does not operate as a 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.

### **15.5 Address for service**

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

(a) in the case of notices to us, to our address, clearly marked for the attention of the Managing Director, appearing in our Engagement Letter or proposal; and:

(b) in the case of notices to you, to the address last notified by you.

### **15.6 Governing law**

This Contract shall be governed by and interpreted in accordance with the laws of the State referred to in the Engagement Letter or proposal and the Courts of 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 those Courts, to claim that the action has been 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 Victoria, Australia shall apply.

#### 15.7 Disputes

If any dispute arises between us we will attempt to resolve the dispute in good faith by senior level negotiations. Where both of us agree that it may be beneficial, we will seek to resolve the dispute through mediation.

#### 15.8 Force majeure

Neither of us 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, floods, acts of God, acts or regulations of any governmental or supranational authority, war, riot, terrorist activities, strikes, lockouts and industrial disputes.

#### 15.9 No assignment

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

#### 15.10 Entire agreement

This Contract forms the entire agreement between us relating to the Services. It replaces and supersedes any previous proposals, correspondence, understandings or other communications (written or oral).

#### 15.11 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.

#### 15.12 Conflicting terms

In the event of any conflict between our Engagement Letter, these Terms of Business and our proposal, the documents will prevail in the following order to the extent of any such conflict:

- (a) The Engagement Letter;
- (b) our proposal;
- (c) these Terms of Business.

#### 15.13 Further assurances

You and we must do all such further acts, matters and things as may be necessary to give full effect to the Contract.

### 16 Definitions

For the purposes of this Contract:

“**Contract**” means the agreement between us as set out in these Terms of Business and our Engagement Letter or the proposal (as the context requires) together with any changes to the Contract that are agreed in writing between us.

“**Engagement Letter**” means the Engagement Letter or confirmation letter to which these Terms of Business are attached.