

TERMS AND CONDITIONS

1. ACCEPTANCE

- 1.1 This Agreement shall apply to all services provided by the Company to individuals and/or entities ("Client") with such services defined in the scope of services supplied to the Client ("Services").
- 1.2 The Client's instructions to the Company to undertake the Services shall amount to acceptance of all terms and conditions contained within this Agreement.

2. INTERPRETATION AND DEFINITIONS

- 2.1 Words capitalised in this Agreement refer to the following definitions or to any other definitions that are identified by inverted commas and capitals:

"Agreement" means these Terms and Conditions.

"Company" means Fox Risk Limited (Company Number 8241686) trading as "Fox Risk Management Consultancy".

"Contract Price" means the price charged by the Company to the Client for providing the Services and any additional services undertaken by the Company pursuant to Variations.

"Services" has the meaning ascribed to it in clause 1.1.

"Working Day" means any day other than a Saturday, Sunday, or a public holiday in Christchurch.

"Variation" means any change to the quantity, character, method or quality of any part of the Services; any services that are added or omitted by oral or written instruction or request of the Client or their representative; or any other circumstance described in this Agreement which is to be treated as a Variation.

- 2.2 The headings to clauses contained in this Agreement are for convenience only and shall not affect their interpretation.
- 2.3 Any reference in this Agreement to a Statute or Regulation shall be taken to refer to that Statute or Regulation as subsequently amended, consolidated or replaced.

3. PERFORMANCE OF THE SERVICES

- 3.1 The Services shall be performed by the Company using reasonable skill, care and diligence.
- 3.2 The Client acknowledges and agrees that it must allow the Company access to all information and staff of the Client as and when required by the Company in order to carry out the Services.

4. VARIATIONS

- 4.1 The Company shall carry out any agreed Variations. The Client shall issue all Variations in writing in order for the Company to agree, however any failure to do so will not invalidate the Company's entitlement to claim for a Variation.
- 4.2 The Company shall submit the price adjustment for the Client's written approval, wherever practicable, before the relevant Variation work proceeds.
- 4.3 Any estimated date for completion shall be extended to take into account the time reasonably required to perform the relevant Variation.
- 4.4 Should the Client request the exclusion of certain services from within the scope of the Services, the Company may, at its discretion, charge the Client a reasonable amount as compensation to the Company for the time spent and loss of profit.

5. DEPOSIT, PAYMENT AND CLAIMS

- 5.1 The Company is not obliged to commence the Services until a deposit (as advised by the Company) has been paid by the Client. Unless otherwise agreed, the deposit shall be paid by the Client immediately upon the Client engaging the Company to undertake the Services, and shall be applied towards payment of the Contract Price. The deposit is non-refundable unless otherwise agreed in writing by the Company.
- 5.2 The Client must pay the invoiced amount in full by the payment date specified in the invoice. However if there is no date stated, then by the 20th of the month following the month in which the invoice is dated.

6. CLIENT DEFAULT

- 6.1 If at any time the Client fails to pay any sum owed to the Company in full by the due date, the Company shall pay interest on the amount outstanding from the due date until the date of payment. The interest rate shall be the Company's default bank overdraft borrowing rate, or one and a half times the Company's non-default bank overdraft borrowing rate, whichever is the higher. The entitlement to interest is without prejudice to any of the Company's rights and remedies in respect of the non-payment.
- 6.2 If at any time the Client fails to pay any sum owed to the Company in full by the due date, or any act, omission or default by the Client effectively precludes the Company from continuing the Services or performing or complying with the Company's obligations under this Agreement, then without prejudice to the Company's other rights and remedies, the Company may suspend the Services immediately after serving on the Client a written notice specifying the payment default or the act, omission or default upon which the suspension of the Services is based. All costs and expenses incurred by the Company as a result of such suspension and any recommencement shall be payable by the Client as if they were a Variation.
- 6.3 If pursuant to any right conferred by this Agreement the Company suspends the Services and the default that led to that suspension continues unremedied for at least 20 Working Days, the Company shall be entitled to cancel this Agreement.
- 6.4 The Client shall be liable for all costs and expenses incurred by the Company as a result of the Client's default, including but not limited to all costs of debt collection, suspension and (if applicable) recommencement of work, preparation, execution, registration and discharge of securities, and the Company's actual and reasonable legal costs, including those incurred in the course of litigation, adjudication, negotiation, mediation, arbitration or any other method of dispute resolution.

7. RISK

- 7.1 The Company shall maintain professional indemnity insurance appropriate to cover the Services supplied.

- 7.2 Any and all other insurance requirements in any way relating to the Services or the Client are the sole responsibility of the Client.

8. OWNERSHIP

- 8.1 The Company shall retain ownership of the Services (including any and all materials) until the Contract Price together with any other monies owing under the Agreement have been paid in full.

9. DELAY

- 9.1 Any date agreed by the parties for completion of the Services shall be a "best endeavours" date only, and such agreed date shall be extended for any delay that is beyond the Company's reasonable control including any delay caused by the Client or the effect of any Variation. The Company shall not be liable in any way for any delay in completion of the Services beyond any date that may be agreed from time to time.

10. WARRANTY

- 10.1 The Company shall ensure that the Services are carried diligently and conscientiously, in line with the relevant scope of services supplied to the Client and completed as soon as reasonably practical.
- 10.2 Other than as set out in clause 10.1 and if expressly and mandatorily set in statute or rule of law, the Company expressly excludes from this Agreement any representations, guarantees and warranties in relation to the Company's obligations hereunder (or any other provisions that would otherwise be implied by statute or rule of law) to the maximum extent permitted by law.

11. LIABILITY

- 11.1 The Company's liability to perform the Agreement shall be suspended if the Client shall commit any act of bankruptcy, enter into any composition or arrangement with its creditors, does any act which would render it liable to be wound up or have a liquidator or receiver appointed over its property, or if a resolution is passed or a petition is filed for the winding up of the Client. Payment for the Services performed up to the date of such suspension or termination shall immediately become due and payable.
- 11.2 Unless this Agreement expressly provides otherwise, the Company's total aggregate liability whether in contract, tort or otherwise for any liability, cost, loss, damage, or injury arising indirectly or directly from any defect in or non-compliance of the Services or any other breach of the Company's obligations under the Agreement will not in any event exceed the Contract Price.
- 11.3 The Company shall not be liable for any loss of profits or any consequential, indirect or special loss, damage or injury of any kind whatsoever suffered by the Client arising directly or indirectly from any breach of any of the Company's obligations arising under or in connection with the Agreement.

12. CONFIDENTIALITY

- 12.1 The Client will maintain and preserve the confidentiality of all information in any form relating to the Services performed by the Company, whether received directly or indirectly, and will take all necessary steps to prevent disclosure to third parties.
- 12.2 The Company will maintain and preserve the confidentiality of the Client's business information in any form and any associated information relating to the Services performed by the Company, whether received directly or indirectly, and will take all necessary steps to prevent disclosure to third parties.

13. INTELLECTUAL PROPERTY

- 13.1 The Company retains all intellectual property rights used or created in connection with the Services. Nothing in this Agreement should be construed as giving either party any rights to any intellectual property rights of the other, except as necessary to fulfil its obligations under this Agreement.

14. ASSIGNMENT

- 14.1 The Client shall not be entitled to assign all or any of its rights or obligations under the Agreement without the express written approval of the Company and subject to such surety as the Company may reasonably require.
- 14.2 The Company shall be entitled at any time to assign or transfer to any other person any monies owing to the Company under the Agreement.

15. NOTICES

- 15.1 Any notice shall be sufficiently delivered if sent by ordinary post, courier or personally delivered to the address for service stated in this Agreement, or sent by e-mail to the relevant e-mail address.

16. ENTIRE AGREEMENT

- 16.1 The Company and the Client acknowledge that this Agreement constitutes the entire agreement between them and that there have been no representations made by either party to the other except as is expressly set out in this Agreement. This Agreement may not be amended or substituted without the express prior written consent of both parties.

17. DISPUTE RESOLUTION

- 17.1 If any dispute or difference (a "Dispute") arises between the parties from or concerning this Agreement the parties agree:
 - a. To meet in good faith to attempt to resolve the Dispute through negotiation.
 - b. If for any reason the Dispute is not resolved promptly, the parties may refer the matter to mediation in which the parties share the mediator's fees and expenses equally and meet their own costs. Either party may in writing request the president or relevant nominating officer of the Arbitrators & Mediators' Institute of New Zealand Inc. ("AMINZ") or by the Resolution Institute to select a mediator.
 - c. A Dispute may be referred to arbitration under the Arbitration Act 1996 if it has not been settled within 30 working days after the appointment of a mediator. The arbitrator's decision under this clause shall be final and binding on the parties.

18. WITHDRAWAL

- 18.1 Every quotation or estimate may be withdrawn by the Company at any time prior to acceptance of the quotation or estimate by the Client.