

# **A I Clynk & Associates / Maddington Tax Accountants**

## **Terms & Conditions**

These Terms & Conditions apply to and govern the services you have engaged us to provide as detailed in the Engagement Letter and in these terms or in which these terms are referred ("Engagement Letter").

The relevant legal entity is A I Clynk & Associates (aka Maddington Tax Accountants) which specifies the work to be performed for the Client (the "Services") and / or the letterhead on which the work is delivered.

"Associated Parties" are those entities nominated in the Engagement Letter and any entities associated with you by virtue of your ability to direct or control, or your legal or direct or indirect beneficial interest in such entities, and any other parties defined as your associates under the Income Tax Assessment Acts 1936 or 1997 for which A I Clynk & Associates performs services.

Our Engagement Letter and these Terms & Conditions together form one legally binding agreement between A I Clynk & Associates as listed above, with whom you are engaging ("A I Clynk & Associates", "us", "we", "our") and the person(s) and/or entity(ies) named in or to whom the Engagement Letter is addressed ("you", "your") ("Agreement"). If anything in these Terms & Conditions is inconsistent with our Engagement Letter, our Engagement Letter takes precedence.

### **Glossary**

Acceptance - You may accept this Agreement by doing one or more of the following:

- signing these Terms & Conditions or the Engagement Letter or both; or
- continuing to instruct us either in writing or by giving verbal instructions or providing information to us after receiving this agreement.

Validity – 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 the contract. In any event, the enforceability of the remainder of the contract will not be affected, provided always that if any such deletion substantially affects or alters the commercial basis of these terms and conditions, the parties shall negotiate in good faith to amend and modify them as may be necessary or desirable in the circumstances.

Unforeseen Circumstances (Force majeure) – neither party will be liable to the other for any delay or failure to fulfil obligations caused by circumstances outside our reasonable control including pandemic. If such reasons continue to prevent performance of either party's duties and obligations for a period of more than 60 days, we will consult each other for the purpose of agreeing what action should be taken.

Entire Agreement - The contents of these Terms and Conditions and Engagement Letter constitute the entire agreement between the parties and supersede any prior negotiations, representations, understandings or arrangements made between the parties regarding the subject matter of this agreement, whether orally or in writing.

Destruction of Files - After the conclusion of the service provided for you, you may leave papers to which you are entitled in our possession. You authorise us to destroy all files and records relating to the service, including papers that you have not retrieved, after five (5) years from its completion, as is our normal practice.

If you wish to retrieve papers or documents to which you are entitled or request us to transfer your file, we reserve the right to image and retain or photocopy your file and all related documents.

Assignment - A I Clynk & Associates may without the consent of the client assign or novate this contract to a successor to the business of A I Clynk & Associates to which this contract relates.

## **1. Confidentiality**

1.1 We will always seek to maintain the confidentiality of your information.

1.2 You agree that we may disclose your confidential information if required to do so by law or if you authorise us to disclose the information. You also agree that, unless you instruct us otherwise, we may, on a confidential basis, provide your confidential information to:

- (a) third parties, where we consider it appropriate for the conduct of a matter;
- (b) your other professional advisors; and
- (c) our professional advisors and auditors;
- (d) other accounting or other professionals in Australia or overseas, to help complete your work.

1.3 You must, unless we otherwise agree in writing, always maintain the confidentiality of any information that we provide to you during a matter. You acknowledge that our Costs Agreement and any advice we provide to you are confidential.

1.4 Unless otherwise advised by you in writing, you agree that we may publicly disclose that we have or are acting for you in a matter, including in tenders and other marketing material and may include in such material a summary of the matter.

1.5 You agree that we are not obliged to disclose to you any confidential information that we have received from a third party, including a client, irrespective of whether that information is relevant to your files.

1.6 Other clients are often interested to know, or have commercial reasons for needing to know, the names of clients for whom we have done work. Without limiting the statement made above we presume your permission for us to disclose (in what we regard to be appropriate circumstances), the fact that we have acted for you without disclosing the details of the work that we have done for you. If this presumption does not suit you, please let us know and we will make sure that we will not disclose your name to anyone except as legally necessary while doing your work.

1.7 Our files may be subject to review as part of the quality control program of the Institute of Public Accountants (or any replacement of or any similar governing authority or institute), which monitors compliance with its professional standards. We advise you that by signing this letter you acknowledge that, if requested, files relating to this engagement will be made available under this program. If your file is selected for such review, we will use your file in accordance with strict confidentiality requirements that apply under this program. To the extent permitted by Australian law, you are permitted to decline to be part of that review. Please let us know if you would like to not be a part of our review process.

## **2. Privacy**

2.1 Your personal information, whether provided by you or by any other person, is protected under the Privacy Act 1988.

2.2 You authorise us to collect and use your personal information provided to us to carry out work on your files. You also consent to us disclosing such personal information where necessary to others in furtherance of or in connection with your files (for example, within the firm, to the court, to the other party or parties to litigation and to experts, valuers and barristers).

2.3 You acknowledge that the use or disclosure of your personal information may be required or authorised under law.

2.4 You agree that we may use or disclose your personal information to market our services to you and to provide you with publications and marketing information that we consider are relevant to you. You will let us know if you do not wish to receive this information.

2.5 You agree to comply with all legislative requirements regarding privacy, including in relation to the collection, use and disclosure of:

(a) personal information we provide to you; and

(b) personal information provided by you to us, including personal information about any individual in relation to your files.

## **3. Intellectual property**

3.1 Unless otherwise agreed in writing, we own all intellectual property rights in all:

(a) works;

(b) subject matter other than works;

(c) inventions;

(d) innovations; and

(e) designs,

developed, created, invented, produced, made or prepared by us in connection with your matters on our engagement.

3.2 We are entitled to make and retain copies of all documents and things you provide to us.

3.3 We may use any of the Materials, created either by us or by any person we instruct on your behalf, for any purpose provided we do not breach our duty of confidentiality to you. We may hold these Materials in hard copy, in electronic format and in our know-how database.

3.4 You may use or re-use Materials we prepare for you during your matters, but only for the purpose for which they were brought into existence. You may not reproduce any Materials for the purpose of selling our intellectual property/rights such as Excel or other Spreadsheets etc.

3.5 If you wish to retrieve papers or documents to which you are entitled or request us to transfer your file notes, we reserve the right to image and retain or photocopy your file and all related documents.

3.6 The working papers we produce in relation to the services (that do not form part of our final work product) are our property. Where reasonably possible we will inform you if any other person seeks access to our work papers we produce in the course of our work for you. We will seek your consent before granting access to any person unless we are compelled to do otherwise at law. In certain circumstances, statutory authorities, may request access to information and work papers and we may not be legally able to prevent such access.

#### **4. Documentation**

4.1 Any documentation provided to us for the purpose of our engagement must be complete, relevant and free from any material errors. It is solely your responsibility to provide us with legible, reliable, complete and accurate accounting records.

4.2 You must ensure that appropriate back-up, security and virus checking procedures are in place for any computer facilities you provide.

4.3 You acknowledge that information made available by you or by others on your behalf to directors, divisional directors or staff of A I Clynk & Associates who are not engaged in the provision of the Services, or which is otherwise known by them, shall not be taken to have been made available to A I Clynk & Associates or to the individuals within A I Clynk & Associates who are engaged in the provision of the Services.

4.4 You must promptly provide us with any report or advice that you obtain from any third-party advisor, consultant or expert that relates to the work performed by us under any of our engagement.

4.5 Furthermore, you must immediately disclose any information to us that is relevant to our engagement or that could result in us preparing false or misleading financial statements or other documents.

4.6 All working papers and other documents created by A I Clynk & Associates will remain the property of A I Clynk & Associates. Documentation will be kept by A I Clynk & Associates for a period of five (5) years (or such shorter period as permitted by law) and then destroyed.

4.7 All records generated and maintained by you, including all original records, documents and other source material you provide to us in the performance of our services will remain your property and will be returned to you upon completion of the Services. You authorise us to retain copies of all such records and material as we consider necessary, however you acknowledge that we are not responsible for retaining any such copies on your behalf for any reason.

4.8 Where we store any records, material or documents on your behalf we may charge you retrieval fees if you request copies of or access to those documents.

4.9 You acknowledge that some of your records and documents will be stored in The Cloud and/or on our Hard Drives in our office or elsewhere and therefore could be stored on servers either in Australia or overseas.

4.10 You understand that we may contract other Accounting and other professionals to work as agent on our behalf, to conduct work on your file, Tax Returns, Financial Reports etc. This work could be conducted by them in Australia or overseas.

## **5. Communication**

5.1 Your acceptance of this engagement grants us authority to act on your behalf, receive and send correspondence to regulatory governing bodies, as well as communicate with your software partners, financial planner, risk insurer, bankers, solicitors, investments and finance companies as required to complete your work. We acknowledge the trust bestowed on us by you to do this and will carry out all representations in a professional, ethical manner.

5.2 You must provide us with complete, clear, accurate, meaningful and timely instructions, and all information and documents requested by us or necessary for us to carry out the work you have engaged us to carry out on a matter. Unless you instruct us otherwise, we are entitled to rely, without verification, on such instructions, information and documents.

5.3 The success of our services and the accuracy of our estimates for completion is dependent on your timely co-operation. As we offer expert, timely and courteous service, we expect our clients to do the same – providing requested information in a timely manner, meeting agreed timeframes and addressing our staff in a polite, courteous and professional manner. Our service team reserve the right to not start work until all information has been received. If you do not provide, or delay in providing that co-operation, you agree to pay us any additional consulting fees and expenses which may result.

5.4 Your responsibilities may include:

- (a) providing the materials and information we reasonably require from time to time for the services, and (if stated in your brief, our proposal, or our engagement letter) your staff to work with us;
- (b) ensuring that appropriate back-up, security and virus checking procedures are in place for any computer facilities you provide;
- (c) making your team, including senior executives, available for consultation on request;
- (d) when on your site providing reasonable working facilities for us;
- (e) notifying us of any issues, discrepancies or grievances you may have as soon as they arise so that we have the opportunity to rectify them immediately;
- (f) presenting all records to the best of your ability and in accordance with the law and do not give instructions or records that are deliberately false or intentionally misleading;
- (g) providing us with source records and documents to meet any and all deadlines in an efficient, stress free and timely manner. We reserve the right to apply additional fees for work considered urgent;
- (h) lodging all documents with the relevant authority (such as the ATO, ASIC etc) on time. You acknowledge that all late fees, fines, penalties etc are your responsibility.

5.5 You must consult with us before engaging another Accounting firm to advise you on any matter.

5.6 You must immediately notify us if:

- (a) you discover that you have provided us with instructions, information or documents that are incomplete, unclear, inaccurate or misleading;
- (b) there is a material change in facts, assumptions or circumstances relevant to a matter;
- (c) your contact details change;
- (d) you do not have the financial capacity to pay our Costs when they fall due; or
- (e) a resolution (including a resolution of your board of directors or trustees) required for our engagement or continued engagement is not passed or authorised or if there is any lack of authority on the part of any person who provides us with instructions on your behalf at any time.

5.7 If we become aware that you have failed to comply with the above clause, we may without limiting any other rights we may have, immediately suspend all or part of our work and/or terminate our engagement in any or all of your files.

5.8 You must make your team, including senior executives, available for consultation on request.

5.9 You must make decisions promptly, to facilitate the performance of the services.

5.10 Where we ask questions of you regarding the information provided. You are responsible for providing accurate and complete responses to our questions within a reasonable time. This should not be taken as meaning that we will verify the accuracy and completeness of the information provided.

5.11 We may communicate with you and others by electronic means. You acknowledge that there are risks associated with electronic communications, such as unauthorised copying, recording, reading or interception of, interference with, viruses or other defects in, or delay in or non-delivery of, such communications. You release us from any claim you may have as a result of loss or damage relating to our communication by electronic means.

## **6. Your Warranties**

6.1 You represent and warrant to us that all records, source material, financial, taxation and other information (your information) that you (or others on your behalf) provide to us is complete, accurate and not misleading and we are entitled to make this assumption in the provision of our services to you. Further, you warrant that you are permitted to use and provide to us your information.

6.2 If there are any errors or inaccuracies in your information and the assumptions set out in the previous paragraph are incorrect, you must notify us immediately and undertake not to rely or act upon our advice or services until you have notified us of the inaccuracies or incorrect information and we have confirmed in writing that we have updated our advice and services to account for those matters.

6.3 You acknowledge and agree that we are not responsible for, and you release us from any claims you may have or loss, cost, damage or expense that you incur as a (direct or indirect) result of any services that are delayed or prevented from being provided at all, or any advice or services that we provide that are incorrect as a result of incomplete or inaccurate material or information provided by you or on your behalf.

6.4 You accept and acknowledge that, subject to any statement made in these terms and conditions and compliance with any statutory warranties, we have not made any warranties or

guarantees of any nature in respect of the services or 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 service.

6.5 You acknowledge that A I Clynk & Associates is engaged under this Agreement as an independent contractor. No person is authorised to give any representations on behalf of A I Clynk & Associates except as set out in the Agreement, and any such representations, which have been or may be given cannot be relied upon and are void.

6.6 If we receive any legally enforceable notice or demand issued by any third party including the ASIC, ATO, ASX, any government statutory body or instrumentality, any Court or tribunal in relation to or in connection with this engagement, you agree to pay our reasonable professional costs and expenses (including solicitor client expenses) in complying with 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. This includes any ATO or ASIC Audits.

6.7 You warrant that, by signing or otherwise accepting this Agreement, you have full authority to enter into this Agreement and provide instructions and information on behalf of the client or the client group.

6.8 You acknowledge and agree to pay our fees within our agreed payment terms.

## **7. Limitation of Liability**

7.1 Where allowed under legislation our liability is limited. Under the Professional Standards Legislation in each State and Territory of Australia, including the Professional Standards Act 1994 (NSW); Professional Standards Act 1997 (WA); Civil Law (Wrongs) Act 2002 (ACT); Professional Standards Act 2003 (Vic); Professional Standards Act 2004 (NT); Professional Standards Act 2004 (Qld); Professional Standards Act 2004 (SA); Professional Standards Act 2005 (Tas) and the Scheme approved under those Acts, the liability of the firm, its partners, associates and employees or contractors is **limited by a scheme approved under Professional Standards Legislation**. A copy of the Scheme is available on the Institute of Public Accountants website <https://www.publicaccountants.org.au/>

7.2 It is a condition of our engagement that our liability for any loss or damage incurred by you, even if connected with the provision of the Services by us, will be reduced to the extent that the loss or damage was caused or contributed to by your own conduct or by the conduct of others or by a breach of any warranty given by you.

7.3 In all instances, other than as expressly set out in these Terms and Conditions, the total aggregate liability of A I Clynk & Associates to the client for loss or damage (including indirect and consequential loss or damage), caused by, resulting from, or in relation to the services, including whether arising from breach of contract, negligence, or any other tort, in equity or otherwise, and whether or not A I Clynk & Associates was advised of the possibility of such loss or damage, is limited (to the extent permitted by law) to an amount equal to the limit of the relevant insurance cover held by A I Clynk & Associates.

7.4 We have a duty to act in your best interests, subject to an overriding obligation to comply with the law; e.g. we could not lodge a document for you that we knew to be materially false. Where relevant, our advice and services will be based on Australian taxation law in force at the date of provision. It is your responsibility to seek updated advice if you intend to rely on it at a later stage.

*Liability limited by a scheme approved under Professional Standards Legislation.*

Australian taxation laws are subject to frequent change and our advice will not be updated unless specifically requested by you.

7.5 To the extent permitted by law you agree that we will not be liable to you for any indirect or consequential loss, loss of income, profit or opportunity or for any contingent, consequential direct/indirect special or punitive damages whether caused by or in relation to breach of contract, warranty, tort, product liability, contribution or strict liability and whether arising under this Agreement, at law or in equity.

7.6 To the extent permitted by law, we will not be liable to you for any loss (of any nature including those detailed in the preceding paragraph) in circumstances where you have acted contrary to, or have elected not to follow, the advice given to you by us or any advice received by you from a third party advisor, consultant or expert procured with the consent or at the recommendation of A I Clynk & Associates.

7.7 To the extent permitted by law, A I Clynk & Associates' employees and directors will not be personally liable to the Client in respect of any loss or damage suffered by the Client as a result of Services provided by A I Clynk & Associates.

7.8 You warrant that that you will notify A I Clynk & Associates of any medical and health related risks and requirements, as well as provide A I Clynk & Associates staff with a safe working environment, in times where A I Clynk & Associates staff carry out procedures on your premises or place of operations.

7.9 We require you, when appropriate, to hold a health and safety briefing at the beginning of each assignment for those involved regarding any hazards, the provision of any personal protection equipment, and the details of your accident reporting and emergency procedures.

7.10 We also require you to comply with all reasonable instructions from us in relation to health and safety matters affecting our people.

7.11 You agree to comply with all statutes, bylaws, codes of practice and legal requirements with which you are ordinarily required to comply in respect of your own staff.

7.12 You acknowledge that A I Clynk & Associates is contracting with you as the principal for and on behalf of A I Clynk & Associates' employees and directors. A I Clynk & Associates' employees and directors will not be liable to you in respect of any loss or damage suffered by you as a result of Services provided by A I Clynk & Associates.

7.13 You represent and warrant that you will not bring any claim arising out of this Agreement against any of A I Clynk & Associates' directors and employees personally.

7.14 You agree not to provide such report to any third party or refer to us or the services without our prior written consent. We assume no responsibility to any third party to which any advice or report is disclosed or otherwise made available. No copy, extract or quote from it may be made available to any other party without our prior written consent.

7.15 You may provide a copy, extract or quote from the report:

- (a) to your advisers and consultants;
- (b) as required by law; or

(c) for the purpose of giving evidence in Court proceedings or any arbitration or mediation (with the consent of A I Clynk & Associates which shall not be unreasonably withheld).

## **8. GST**

We may increase our fees by an amount in respect of GST in connection with our liability to pay GST on the supply of any goods or services in the course of carrying out work for you. That includes an amount on account of any GST we pay on outgoings we incur on your behalf and any amounts we lose by way of entitlement to a refund or credit for any GST which has been charged to us or paid by us.

## **9. Credit Policy**

The period from the date of invoice within which our clients may settle their fees will be shown on each invoice. We may render accounts as interim work in progress and / or upon finalisation of the engagement. We reserve the right to recover costs, including time costs and legal expenses incurred in relation to collecting outstanding invoices.

## **10. Payment of Invoices**

The available methods of payment of our invoices will be detailed on each invoice and may include credit card payments. Credit card payments will incur a surcharge in addition to the invoice amount. The amount of each surcharge will be added to the total invoice amount and may vary depending on the type of credit card to be used. By electing to pay your invoice by credit card you agree to pay the relevant surcharge in addition to and at the same time as payment of the invoice is made.

## **11. Dispute Resolution**

11.1 If a dispute or claim arises between A I Clynk & Associates and you during the engagement, then the parties will confer and act in good faith to resolve a course of action within thirty (30) days of notification by any party to the others of the claim or dispute.

11.2 If after exhausting the procedure as set out in the preceding paragraph, the parties do not resolve the dispute or claim arising out of this engagement, then such dispute or claim may be resolved by expert determination at the Magistrates Court of WA or any other such Court or Tribunal that may hear the case. Expert determination will be conducted in Perth WA. For the purposes of the expert determination, any party to this engagement may refer the matter to the Magistrates Court of WA etc but must give written notice to the other parties of this within seven (7) days of writing to, or contacting the Court. Subject to other provisions of this engagement, the expert's determination will be final and binding on the parties. Any costs of such will be paid for by the losing party.

## **12. Credit Reports**

The Privacy Act prohibits us from obtaining credit references from credit reporting agencies without the consent of the party concerned. Like most businesses, we reserve the right to obtain credit reports on our clients. If you instruct us to act for you, you consent to us obtaining a credit report in relation to you. We will not disclose the contents of that report to anyone else. This is a matter which we must raise with all of our clients, considering the provisions of the Privacy Act. It is not directed specifically to you or to anyone else.

## **13. Third Party Suppliers**

*Liability limited by a scheme approved under Professional Standards Legislation.*

13.1 As part of our service, from time to time, we may offer or recommend third-party software suppliers as either part of our offering or at an additional cost. Any supply made by third party suppliers may be subject to separate Terms and Conditions of each of the suppliers. You should not agree to engage any third-party suppliers without obtaining and reviewing a copy of any such Terms and Conditions.

13.2 A I Clynk & Associates will only recommend third-party software where we deem appropriate, but we will not be liable for any loss, cost, damage or expense that you incur directly or indirectly as a result of your use or reliance upon any third party software.

#### **14. Additional Work**

14.1 If additional work that is outside of the scope of works detailed in the Engagement Letter flows on from this engagement, the same engagement conditions will apply except where otherwise agreed. You agree that any time that we spend in complying with statutory and audit obligations on your behalf, will be additional work.

14.2 Notwithstanding that this additional work will be governed by this Agreement, you acknowledge and agree that it will not be included in our existing fee estimate and you will be responsible for all additional fees, costs and expenses incurred directly or indirectly by us in completing the additional work.

#### **15. Drafts**

15.1 You agree that no reliance shall be placed on draft reports, draft conclusions or draft advice, whether oral or written, issued by us as they may be subject to further work, revision and other factors which may mean that such drafts are substantially different from any final report or advice issued.

15.2 Written advice and final reports shall take precedence over any oral advice and interim reports. A I Clynk & Associates is not responsible for updating any opinions, advice or reports after the issue of a final version.

15.3 We provide services in accordance with standards issued by the Accounting Professional & Ethical Standards Board. This includes APES 110 Code of Ethics for Professional Accountants (including Independence Standards), which among other things contains provisions that apply if we become aware of any actual or potential 'non-compliance with governing laws or regulations' (NOCLAR).

15.4 Where any such non-compliance poses substantial harm (such as serious adverse consequences to investors, creditors, employees, auditor, group auditor or the public), we may be required to disclose the matter to an appropriate authority. Unless otherwise stated in our scope of works (such as in the performance of an Audit), our engagement must not be relied upon to disclose errors or irregularities including fraud; however, we will inform you of any such matters that come to our attention.

15.5 Any valuation service will be conducted in accordance with APES 225 Valuation Services issued by the Accounting Professional & Ethical Standards Board Limited (APESB).

15.6 Any forensic accounting service will be conducted in accordance with APES 215 Forensic Accounting Services issued by the APESB.

15.7 Any outputs are prepared for distribution to the parties of our engagement and relevant statutory bodies for the agreed purpose. We assume no responsibility for reliance on our outputs by anyone other than this.

15.8 Any financial reports compiled will not be prepared in accordance with any particular financial reporting framework unless this is specifically required by you or by a particular law or regulation. Any known departures from a specified or mandatory statutory financial reporting framework will be disclosed within the financial report, and when considered necessary, will be mentioned in our compilation report.

15.9 A I Clynk & Associates is not licensed to provide financial products advice, we will not make recommendations regarding financial products. We are able to refer you to relevant licensed professionals who can provide financial and advice under their Financial Services license.

15.10 Where A I Clynk & Associates prepares or assists in the preparation of Business Activity Statements (BAS) incorporating GST:

Responsibility for accounting and internal GST control systems will be as follows:

(a) The responsibility for the maintenance of your accounting and internal GST control systems rest with you. We have not reviewed, nor been asked to review, your GST accounting records/software.

(b) You confirm that your GST accounting records/software will produce the necessary BAS summary information in an appropriate format for us to complete each of the labels in the GST calculation sheet on the BAS. Our engagement is limited to accepting your GST summary figures for BAS lodgement purposes. We will not verify the accuracy of the figures and information provided by you and you must bear full responsibility for them.

(c) To the extent we may be required to assist in summarising records to assist in the preparation of BAS summary information, we will rely on and not verify the accuracy of records you have maintained from which summarised data is extracted.

15.11 We will rely on and process the financial information you provide to us without any review of the primary source documents. In doing that, we will make the following specific assumptions:

(a) You have the necessary supporting documentation to satisfy the ATO for GST purposes (e.g. GST reconciliation worksheets).

(b) At the time of lodgement of your BAS, you hold valid tax invoices and adjustment notes for all expenditure incurred by you in respect of which an input tax credit or decreasing adjustment is being claimed.

(c) The information provided by you in respect of input tax credits where the acquisition has been made partly for a private or domestic purpose or partly for input taxed supplies, is correctly apportioned.

(d) If you account for GST on a cash basis you have identified in the information provided to us, and will only claim, input tax credits in respect of expenditure you have actually paid during the relevant quarter.

15.12 Where we provide you with taxation services and / or advice:

(a) Under the taxation law, responsibility for the accuracy and completeness of income tax returns and statements/returns made to the Australia Taxation Office vests with the taxpayer (or officers of the taxpayer entity) i.e. You.

(b) There is a regime for the regulation of tax agents under the Tax Agent Services Act 2009 and accompanying legislation (TASA). The regime imposes responsibilities on both Tax Agents and their clients.

(c) Under the TASA, Tax Agents must comply with a code of conduct that includes the requirement that we take reasonable care in ascertaining a client's state of affairs in relation to preparing tax returns or providing tax advice for clients. In order to take reasonable care in relation to your taxation affairs we request that you provide us with all relevant information. Where there is some doubt concerning any information provided to us, we are required by the TASA to make reasonable enquiries as to the completeness, correctness and accuracy of the information.

(d) The tax law imposes penalties on taxpayers where the taxpayer or their agent makes false or misleading statements in relation to the taxpayer's affairs. From 1 July 2010 these penalties can apply even if there is no tax shortfall amount. Therefore, it is important to ensure you provide us with all relevant information for the preparation of the return or provision of advice and that it is accurate in all material particulars even if it does not affect the ultimate tax payable.

(e) An important feature of TASA for clients is the provision of a "safe harbour" protection from penalties in certain circumstances for taxpayers who engage registered tax agents. To obtain the benefits of "safe harbour" protection, the legislation requires the client to provide the registered tax agent with "all relevant taxation information" to enable accurate statements to be provided to the Australian Taxation Office. You can find further information regarding the "safe harbour" protection on the Tax Practitioners Board Website: [www.tpb.gov.au/safe-harbour](http://www.tpb.gov.au/safe-harbour)

## **16. Unforeseen Circumstances**

16.1 Sometimes provision of our services might be delayed due to unforeseen circumstances. These may include, among other things, staff illness, accidents, mechanical breakdowns or computer failure.

16.2 If we have not caused or contributed to a delay we will be excused from providing the services anticipated by this letter for as long as and to the extent that the prevention or delay lasts and any such delay does not amount to a breach of this Agreement by us.

## **17. Termination of the Engagement**

17.1 You may terminate our engagement at any time by giving us 14 days verbal or written notice of such termination.

17.2 We may (in our discretion) elect not to continue to do work for you or terminate this Agreement in any of the following circumstances. We will give you verbal or written notice of our suspension of work or termination of this Agreement:

- (a) You fail to pay our tax invoices or any other money owing to us by the due date;
- (b) You fail to provide us with adequate instructions within a reasonable time;
- (c) You give instructions that are deliberately false or intentionally misleading;

(d) You fail to accept advice we give you or any advice received by you from a third party advisor, consultant or expert procured with the consent or at the recommendation of A I Clynk & Associates;

(e) You engage another firm to advise you on matters that are included in our scope of services without our consent;

(f) On reasonable grounds we believe that we may have conflict of interest;

(g) You are in default under this Agreement and you fail to rectify that default within a reasonable period after we give you notice requiring that rectification;

(h) If A I Clynk & Associates becomes aware, or has reasonable grounds to suspect, you are in breach or are likely to breach any laws or regulations.

17.3 If you terminate this Agreement a tax invoice will be sent to you and you must pay our fees and expenses incurred up to the time of termination, **including** if any extra work/copies of documents etc are required for you to be able to move to another Accountant/Tax Agent.

17.4 Termination of this Agreement (by either party and for any reason) does not affect your liability for all costs and expenses incurred by us in performance of the services up to the termination. You must pay all accrued costs and disbursements within 14 days from the issue of the Final Invoice (or otherwise in accordance with the payment terms detailed on the relevant invoice).

## **18. Lien**

18.1 Without affecting any lien to which we are otherwise entitled at law over funds, papers and other property of yours in our possession:

(a) we shall be entitled to retain by way of lien any funds, property or papers of yours, which are from time to time in our possession or control, until all costs, disbursements, interest and other moneys due to us have been paid; and

(b) our lien will continue notwithstanding that we cease to act for you or that this Agreement is otherwise terminated or expires.

## **19. Complaint Procedure**

28.1 It is A I Clynk & Associates' aim to obtain, either formally or informally, a regular assessment of A I Clynk & Associates' performance and your client service partner/director will always be pleased to hear any suggestions as to how our service can be improved. If you wish to make a complaint, please call (08) 6365 4343 or write to Mr Mick Tuteja (A I Clynk & Associates), 3/64 Attfield Street, Maddington WA 6109. If you are dissatisfied with the way your complaint is handled, you can further report the matter to the Institute of Public Accountants or to the Tax Practitioners Board.

28.2 The Tax Practitioners Board maintains a register of Tax Agents and BAS Agents, which you can access and search at [www.tpb.gov.au](http://www.tpb.gov.au) along with the Board's complaints process.

28.3 The Tax Practitioners Board also provides a Fact Sheet titled "Information for Clients", available on their website [tpb.gov.au](http://tpb.gov.au), outlining your obligations to the ATO and a tax agent's obligations to the Tax Practitioners Board. We encourage you to access the most up to date version from the above-noted website, which also includes some sample scenarios; and for your

convenience also provide the following content from the first page of the factsheet:  
<https://www.tpb.gov.au/sites/default/files/2022-10/information-for-clients-factsheet-tax-agents.pdf>

## **20. Disclaimer**

29.1 A I Clynk & Associates is its own separately owned legal entity and does not accept any responsibility or liability for the actions or inactions of any individual member or correspondent third party firm(s). Liability is limited by a scheme approved under Professional Standards Legislation.

29.2 These Terms & Conditions and the Engagement Letter may not include all Terms & Conditions of this Engagement. We may add or remove some Terms and Conditions to these and if we do, they will be in writing, either on our Website, by letter or by email.

29.3 Informal verbal advice may be given from time to time. We do not accept liability for informal verbal advice for which insufficient information is provided, which may be taken out of proper context and/or is not confirmed in writing.