

Lindsay and Associates Chartered Accountants

ACCOUNTING AND TAXATION SERVICES TERMS OF ENGAGEMENT SIGNED AS A DEED

Dear

CLIENT NAME: _____

To List Taxpayers (1) _____
(2) _____
(3) _____
(4) _____

1. (a) This is to set out **the various professional assignments** you have requested us to perform. Please confirm these by signing and returning this letter to ourselves. In addition, continuing to engage us will be taken as consent by you to our Terms of Engagement.
(b) At present this Accounting Practice operates as a sole practitioner being David Lindsay trading as Lindsay & Associates. In the future this Accounting Practice may be transferred to operate under a company or trust ownership structure. David Lindsay will remain as the Principal in charge and all staff will continue to work as usual. There are no anticipated changes in service to clients. The parties to this Terms of Engagement and its Attachment A agree to these terms and agreements being transferred to the new entity.
2. Generally, our work will include preparing Financial Statements, tax returns and providing advice. If we consider it necessary, our specific work will be detailed in an **attachment "A"** to these terms of engagement.
3. We mutually agree that **your responsibilities** in connection with the work to be performed for you will **include the following:**
 - (a) **You will provide** us with the records, information, documents, and explanations, on which we will rely without verification, and that you will maintain any of your own accounting records in a form necessary to enable us to carry out, the selected professional assignments on a timely basis. This requires:
 - 1) your **completion** of our **checklists** (before the job is commenced)
 - 2) your **actioning solutions** to previous **problems**
 - 3) your **notifying** us of **unusual transactions** occurring this year
 - 4) all **client** prepared **information** being **accurate**
 - 5) you to obtain and **retain** all necessary **source information** to satisfy all tax and legal claims and requirements e.g.: you to hold GST tax invoices to enable each GST return to be completed accurately
 - 6) **prompt answers** being provided to our queries and requests for missing information – to minimize stop/start inefficiencies
 - 7) delays not being incurred e.g., by **late payment** of our **progress fees**.

The greatest **potential for cost savings** is by minimizing "problem areas," refer to the above examples. Problems arising from these can sometimes take three times longer than if a trouble-free run was possible.

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- (b) **to advise** us of any **changes in any personal details** such as address, family members and marital status, or similar, to enable us to fulfill various obligations resulting from these changes. Your address for correspondence is as shown on the letterhead of this letter. Please advise any change to this address.
- (c) **to retain** taxation **files** for the **statutory period** determined by relevant taxation legislation.
- (d) whilst **we shall exercise all due care and skill** in preparing the financial statements and/or return of income, it is understood and agreed that **you have responsibility** for the accuracy and completeness of:
 - the content of all information provided to us; and
 - the financial statements; and
 - the tax returns.

Similarly, by law, ultimate responsibility for any penalties or interest arising from any error in your return of income or financial statements, or for any reason (e.g., failure to pay taxation when due) will rest with you.

NON - AUDIT

- 4. We understand that you do not require us to carry out any audit or review engagement of your records or business affairs which would enable us to express an independent professional opinion on the financial statements we prepare. For this reason, and in accordance with our obligations as members of Chartered Accountants of Australia and New Zealand your financial statements/similar will include a clear statement by us headed "Compilation Report", recording that our responsibility in connection with the financial statements is to you only, and not to be relied upon to prevent or detect fraud or error, and we emphasize that responsibility for prevention or detection must remain with your management. Your work will be prepared to a compilation engagement standard unless agreed otherwise in writing.

CONSOLIDATION – GROUPS OF COMPANIES

- 5. The Companies Act 1993 and the Financial Reporting Standards require that companies with commonly held ownership consolidate their financial statements. **Please be aware that this will incur additional costs.**

DISPUTE RESOLUTION

- 6. (a) If you have a dispute regarding our fees, you should in the first instance contact David Lindsay.
- (b) If there is a dispute relating to the Services or an Outstanding Amount, the parties agree to resolve the dispute in good faith. If the dispute is not resolved by the parties within 30 days, the parties agree to enter into mediation or another form of dispute resolution before commencing legal proceedings. Written notice of the dispute must be given to the other party for it to be submitted to mediation before a mediator chosen by the parties or, where the parties cannot agree on a mediator, then as selected by CAANZ. If the dispute is not resolved within 60 days after notice of the dispute is first made or such further period as agreed between the parties then the mediation will terminate.
- (c) If the dispute remains unresolved, you agree to the matter being submitted to the Chartered Accountants Australia & New Zealand ("CAANZ") for review by their fees resolution service. The decision of CAANZ shall be final. Alternatively, disputes may be referred to The Disputes Tribunal division of the Auckland District Court to be heard in Auckland.

JURISDICTION

- 7. This agreement and all relationships and attendances resulting from it are to be governed and construed in all respects in accordance with the laws of New Zealand. The parties agree that any dispute will be filed and heard in the relevant court or tribunal at Auckland only.

ACCOUNTANTS LIABILITY

- 8. (a) Our duties and responsibilities will be carried out with due professional care by persons who have adequate training, experience, and competence in the compilation of financial information. However,

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if you suffer any loss whatsoever as a result of any acts or omissions by us in performance of our duties and responsibilities, our liability will be limited to the lesser of three times the annual fee for the compilation carried out, or the cost of making good the loss you have suffered. Where services are provided in connection with a business, the guarantees implied by the Consumer Guarantees Act will not apply. Where you have rights under the Consumer Guarantees Act nothing in this paragraph limits those rights.

- (b) If you **distribute the financial statements** (or other report) to any person **without** attaching to them my **statement disclaiming liability**, then you will **indemnify me** against all claims, actions, damages, liabilities, costs and expenses (including but not limited to reasonable legal costs and expenses) incurred by me and arising out of or in connection with any action, claim or proceeding brought by any third party in connection with the services provided by me to you.
- (c) **Tax payment obligations** will be advised by way of the tax return when it is sent to you for Signature. It is the **obligation of the taxpayer alone to ensure such payments are paid by the due date**. Failure to pay by the due date can result in a range of penalties and interest being charged and steps to collect being imposed by IRD.

ALTERATIONS TO THIS AGREEMENT

- 9. The terms of this document published online are the total agreed terms of engagement, and oral discussions of any nature may not be implied into our dealings with you/the Client. Any variation to these terms of engagement must be in writing and signed by both parties.

NON-WAIVER

- 10. Failure by us to enforce any of the terms and conditions contained in this contract shall not be deemed to be a waiver of any of the rights obligations we have under this contract. Further, if any provision or item of this contract fails, all remaining provision shall stand enforced between the parties.

GUARANTORS

- 11. (a) Any personal guarantee made by any third party shall not exclude you in any way whatsoever from the liabilities and obligations contain this contract. You shall be jointly and severally liable with any guarantor under the terms and conditions of this contract.
- (b) If you are a company or trust, your director(s) or trustee(s) shall be jointly and severally liable with you to us for the performance of all obligations including but without limitation payment to us of all monies due to us for the provision of the services.

ADVICE

- 12. **Advice** given is **relevant** to the **point in time only** that it is issued and **maybe superseded by law changes**, legal interpretation changes, business developments etc. Tax advice given and a tax position taken could be challenged by the Inland Revenue Department and generally the **burden of proof falls upon the taxpayer**. The cost defending a tax position could be prohibitive to the taxpayer. **Tax advice** relating to **more than minor matters** must **only** be taken **from David Lindsay**. Further No staff member is permitted to give any advice relating to any **real estate transaction**. Any **advice given** by Lindsay and Associates is given **subject to the above conditions** being accepted by clients and any other recipients.

CONFIDENTIALITY

- 13. Subject to our responsibility to respond to queries directed to us by the Inland Revenue Department we will maintain confidentiality with respect to the business records and your personal affairs. In the absence of specific instructions from you (verbal or written) copies of the financial statements and / or returns of income will be provided only to yourself and the Inland Revenue Department and to such other persons as we are required by law to disclose them.

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PRACTICE REVIEW

14. The **Chartered Accountants Association of Australia & New Zealand (CAANZ)** requires practitioners to be subject to **review from time to time** in order to ensure that professional standards are being maintained. Reviews are based on a sample of files and your file may be selected by the reviewer for examination. The **reviewer** is officially **appointed by CAANZ**, and is **bound by declarations of secrecy**, meaning utmost confidentiality is maintained. Further, the reviewer is the only person from CAANZ who has access to your records, and no copies are made, but the review could include anonymous reference to information provided by you. If you have any questions about practice review, please do not hesitate to contact us.

GENERAL

15. While we both reserve the right to resign from the engagement, **the arrangements outlined in this letter will continue** in effect from year to year unless we mutually agree in writing to vary them. Your instructions to proceed with any assignment will constitute acceptance of the terms of this letter of engagement.

If you have **any questions** about the contents of this letter, **please contact me**. If the services outlined are in accordance with your requirements and if the above terms are acceptable to you, please initial each page (at the foot) and sign a copy of this letter in the space provided on the final page and return to me.

OWNERSHIP OF RECORDS

16. The ownership of all work papers records etc. prepared by Lindsay & Associates will be retained by David Lindsay or his successors notwithstanding that any or all invoices issued for accounting work have been paid by the client.

INLAND REVENUE AUTHORITY TO ACT

17. To gain access to Inland Revenue (IR) information for each taxpayer, each of these taxpayers must sign an authority form to be linked to our Tax Agency with IR. These authorities will only be used in the course of the types of work that you require and authorize. IR linking forms will be supplied to each taxpayer as required.

ACCIDENT COMPENSATION CORPORATION

18. You authorise our organization to act as your agent for ACC levy purposes for all associated entities. This authorisation allows our organization to query and change information on your ACC levy account(s) through ACC staff, and through ACC Online Services. This authority will also allow our organizations' main representative discretion to delegate access to your ACC information to other members of our organization. Other delegated members of our organization will also be able to query and change information on your ACC levy account.

PROFESSIONAL FEES

19. Your fee is calculated by the *extent of our duties, hours worked, the quality of the records presented to us, (refer 3a) as well as our responsibilities for you*, taking into account the urgency and complexity of the matters involved. If we are required to incur costs on your behalf or on behalf of any of those listed above, this will be included as a disbursement charge on our tax invoice.
20. In the event that we satisfy your needs with **exceptional results**, you have agreed to review the situation and decide whether, at your sole discretion, some additional payment to Lindsay & Associates/Ltd. is appropriate in view of the overall value of services rendered and financial gains to you.
21. Where not paying by auto payment or similar the **due date for payment** is that fees invoiced (including deposits and progress fees) be paid at the earlier of completion of your work or 10 calendar days after an invoice is rendered. In cases where any portion of my fee is unpaid, I reserve the right to

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the right to bank the client's taxation, goods and service tax, **or other receipts/funds** into my trust or business bank account to cover and **offset** outstanding fees for any work performed. In default of such prompt payment, you undertake to pay **late payment fees** of 2.5% per month on any amount outstanding and to indemnify us and pay all costs and expenses on a solicitor/client basis if legal action is necessary, and/or my debt collectors' fees, which we may incur in recovering from you any overdue account.

In consideration of our providing services to the client, you agree to **personally guarantee** payment by the due date of all accounting fees and disbursements owed by the client to us (including solicitor client costs and the costs of collection and interest). Where there is more than one guarantor, liability is joint and several. You acknowledge that by signing these terms of engagement you are signing as both authorised signatory for the client and guarantor.

Where any payment is later reversed, clawed back, or forced to be forfeited by David Lindsay then you agree to make a replacement payment for the full amount to David Lindsay on the same terms as above.

OUTSOURCING

22. We may utilize the services of tax specialists, other specialists, lawyers, valuers, verification services and/or auditor for the Anti-Money Laundering and Countering Financing of Terrorism purposes, Audit Shield or another tax audit insurance provider, Practice Review under CAANZ and an independent Chartered Accountant performing review work, and others from time to time. To perform the services, we provide these third parties with access to your data to the extent this is required to perform the services. This may require information to be sent to our service provider in accordance with our Privacy Policy.

CONFLICT OF INTEREST

23. Both clients and Lindsay & Associates have a responsibility to identify any conflict of interest or potential conflict of interest and to notify the other party of this in writing at the earliest opportunity.

Entity Name: _____

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24. Privacy Act 2020

The Client and the Guarantor/s (if separate to the Client) authorises the Firm to: collect, retain and use any information about the Client, for the purpose of assessing the Client’s creditworthiness or marketing products and services to the Client, and disclose information about the Client, whether collected by the Firm from the Client directly or obtained by the Firm from any other source to any other credit provider or any credit reporting agency for the purposes of providing or obtaining a credit reference, debt collection or notifying a default by the Client.

Where the Client and/or Guarantors are an individual the authorities under clause 14a (of this Engagement letter) are authorities or consents for the purposes of the Privacy Act 2020.

The Client and/or Guarantors shall have the right to request the Firm for a copy of the information about the Client and/or Guarantors retained by the Firm and the right to request the Firm to correct any incorrect information about the Client and/or Guarantors held by the Firm.

REQUESTING INFORMATION FROM THIRD PARTIES

25. Approval is hereby given to my Chartered Accountant to obtain from third parties (**including** but not limited to **banks, solicitors, Inland Revenue, Accident Compensation Commission (ACC refer detailed authorisation on earlier page) and valuation** sources and to “link” where applicable to obtain this information all such information as is necessary to prepare relevant financial statements, forecasts, schedules of income, tax work etc. until further notice is given. Any related charges may be directly debited to the client’s account/s or billed directly to the client by the third party.

ATTACHMENTS A: Statement of Included Services (other than those listed at para 2 of this letter).

Lindsay & Associates/Ltd.

READ AND CONFIRMED – SIGNED AS A DEED

1st Shareholder/Director/Partner/Trustee/Beneficiary/Individual		<i>Spouse/family member / other acting as guarantor</i>	
Signature:		Signature:	
Name (printed)		Name (printed)	
Witnessed by: (name/address/occupation)			
2nd Shareholder/Director/Partner/Trustee/Beneficiary/Individual		<i>Spouse/family member / other acting as guarantor</i>	
Signature:		Signature:	
Name (printed)		Name (printed)	
Witnessed by: (name/address/occupation)			
3rd Shareholder/Director/Partner/Trustee/Beneficiary/Individual		<i>Spouse/family member / other acting as guarantor</i>	
Signature:		Signature:	
Name (printed)		Name (printed)	
Witnessed by: (name/address/occupation)			
4th Shareholder/Director/Partner/Trustee/Beneficiary/Individual		<i>Spouse/family member / other acting as guarantor</i>	
Signature:		Signature:	
Name (printed)		Name (printed)	
Witnessed by: (name/address/occupation)			