

Porters CA – Terms of Trade

The following terms and conditions together with the Engagement Letter form the agreement between you and us to the exclusion of any other express or implied term, whether expressed orally or in writing, including any conditions, warranties and representations and shall supersede all previous letters of engagement, undertakings, agreements and correspondence regarding the Services.

Our Commitment to You

We will perform the Services with due care, competence and diligence. We will act ethically and in accordance with relevant professional codes of conduct at all times during the course of the Engagement.

We will assign staff members possessing the technical skills and knowledge necessary to ensure work quality and value to the Engagement. With your agreement, we may also use third parties in performing our services. Regardless, we alone will be responsible to you for the performance of the Services and our other obligations under this Engagement Letter.

While we alone are responsible for the performance of the Services, you are solely responsible for the work and fees of any third party engaged by you in connection with the Engagement, even if we introduced that party to you.

We will keep you informed of progress during the course of undertaking the Engagement and advise you of any issues that could potentially expand the scope of the Engagement or the time required to complete it.

Your Undertaking to Us

To maintain our service level to you and reduce the possibility of cost overruns, you agree to disclose all information relevant to the work being undertaken in a timely manner and with reasonable care. We will not be responsible for delays caused by a lack of information or information not provided in a timely manner. Delays in receiving information may also result in additional fees being charged.

In the course of providing information to Porters CA, you agree to indemnify and release Porters CA from any claims arising from any misstatement or omission in any material, information or representation supplied or approved by you.

Any opinions and advice will be provided in writing and addressed to you. All opinions and advice will be based on the information provided by you and if any information provided is not accurate or correct, our advice or opinion may need to be amended. Our reports, letters, information, opinions and advice should not be disclosed or used for any purpose other than that for which they were prepared, nor should they be reproduced, referred to in any other document or made available to any third party without our prior written consent. The only exceptions to this requirement are others within your organisation, your professional advisors acting in such capacity or as required by law, court order or any regulatory or professional body.

Before, during or after the engagement, we may supply you with oral, draft or interim advice, reports or presentations, but in such circumstances our written advice or final written report shall take precedence. No reliance should be placed on any oral, draft or interim communications. When you wish to rely on oral advice or an oral presentation, you shall inform us and we will provide documentary confirmation of the advice concerned.

We shall not be under any obligation in any circumstances to update any advice or report, oral or written, for events occurring after the advice or report has been issued in final form.

You undertake that, if anything occurs after information is provided by you to Porters CA, to render such information untrue, unfair or misleading, you will promptly notify Porters CA and, if required by Porters CA, take all necessary steps to correct any announcement, communication or document issued which contains, refers to or is based upon, such information.

Where it is envisaged that reports, letters, information, opinions or advice given by us to you will be provided to or used by a third party we reserve the right to agree with you terms regarding such provision, or to require the third party to enter into a direct relationship with us. Accordingly, neither the Engagement Letter nor any terms we agree with you to allow third parties access to our reports, letters, information or advice are enforceable by a person who is not a party to it, except where expressly provided

for in the Engagement Letter. Unless otherwise agreed in writing, we recognise no responsibility whatsoever other than that owed to you as at the date on which our report or other advice is given.

You will not commit us to provide any opinions, certificates or reports to any third party without our prior written consent. Any such consent will be subject to conditions (to be agreed with you and/or the third party) and may include the provision of an indemnity. Where information that is or may be relevant to our work has been provided to someone at Porters CA other than those individuals who are carrying out the work under this Engagement Letter, you accept that knowledge of that information will not automatically be imputed to those individuals.

Client Feedback

We are committed to meeting your needs and welcome your feedback on all aspects of our service. To provide your comments, please contact Simon Terry or email simon@portersca.com.

Confidentiality

“Confidential Information” shall mean any confidential information in any form (including any copies and any document which contains, reflects or is derived from Confidential Information) disclosed by you or us to the other party (whether before or after the date of the Engagement Letter).

Confidential Information does not include any information that: (a) is or subsequently becomes public knowledge (other than as a result of disclosure in breach of these Terms of Trade) or (b) was known by the receiving party on a non-confidential basis prior to disclosure; or (c) becomes available to the receiving party on a non-confidential basis from a person who is not bound by obligations of confidence; or (d) you and we agree in writing is not confidential or may be disclosed.

Each of us shall keep the other’s Confidential Information confidential and shall not use such Confidential Information except for the purpose of exercising or performing the relevant rights and obligations under the Engagement and shall not disclose any Confidential Information to a third party, except as expressly permitted by this clause. We may disclose your Confidential Information to persons who supply services in relation to, or connected with, the Engagement, on the understanding that they will treat that information as confidential. You and we may disclose Confidential Information as required or allowed for by law or professional standards, or with your express consent.

Chartered Accountants Australia and New Zealand in Australia exercises a quality control program in respect of its members. In the absence of specific direction from you to the contrary, our files, including the files relating to your Engagement, may be selected at random for external review. The same strict confidentiality requirements apply to these external reviews as apply to us.

Collaboration and Joint Venture Partners

In order to provide a professional and comprehensive suite of services to you and a central point of contact for you, Porters CA may work collaboratively with third parties. This may include working with lawyers, tax consultants, financial planners, self-managed superannuation services, insurance brokers, banks, finance brokers, valuers and more. We will seek your authorisation prior to working with a third party and such authorisation may be written, verbal or implied by conduct. Where you have authorised us to provide or share information with those parties you agree that Porters CA is not responsible and will not be held liable for the quality of the work by the third party and that sharing of information with those third parties is authorised by you.

In some instances Porters CA may have arrangements whereby we receive a commission or share of profit from the third party.

Privacy Statement

At all times Porters CA is committed to protecting your privacy. Any personal information held by Porters CA for financial, accounting or general mailing purposes will only be used by Porters CA to support your relationship with us, and to ensure you receive the most appropriate range of information and services.

We may collect personal and other information about you in connection with the Engagement and may disclose the information to third parties where we consider it necessary to provide the Services or where we are required to do so by law. We may also obtain a credit report or credit reference from a credit reporting agency in relation to you. We do not presently consider it likely that your personal information will be disclosed overseas.

Your information may be managed or stored using cloud accounting services such as myob and Xero and we may store information in offsite servers including data backup and recovery. We outsource our IT support and as part of maintaining a safe and secure IT infrastructure the data on our system may be visible to our service provider. We monitor and review all service arrangements for quality, security and privacy however we can not guarantee the ongoing security of such arrangements.

Unless you inform us otherwise, by engaging us, you consent to the collection and disclosure of personal information on these terms and to us obtaining a credit report on you if we decide it is appropriate to do so. If you do not provide us with the personal information we request, and do not consent to the use of your personal information as described, then we may not be able to provide our services to you.

Conflicts of Interest

We may act for clients who may compete with or be involved in business with you. Naturally, we will continue to represent those clients or new clients in matters that are not substantially related to work we are engaged to perform for you.

We will use all reasonable endeavours to avoid the existence of conflicts and will report these to you as soon as reasonably possible after we become aware of them. You acknowledge that such events will not give rise to claims against us other than in exceptional circumstances.

Limitation of Liability

To the extent permitted by law, we are not liable to you, whether under the law of contract, tort or otherwise or whether under any other common law or statutory cause of action, for any amount with respect to any loss of profit, goodwill or data or any indirect or consequential loss.

To the extent permitted by law, our liability to you for loss or damages suffered by you in connection with the delivery of services by us to you is limited by a scheme approved under the Professional Standards Legislation.

Further information on the scheme is available from the Professional Standards Councils’ website: <http://www.professionalstandardscouncil.gov.au>

To the maximum extent permitted by law, any liability of Porters CA for any loss or damage incurred by you arising directly or indirectly out of or in relation to the Engagement shall be reduced to such extent as is attributable to any act, information provided, error or such other conduct by you or on your behalf which was a cause of such loss or damage, and you release and indemnify us in relation to any liability for such proportion of the loss or damage which is so attributable to any such act, information provided, error or other conduct committed by you or on your behalf.

Indemnities

You agree to indemnify and hold harmless Porters CA against any and all losses, claims, costs (including legal costs), expenses, actions, demands, damages, liabilities or any other proceedings whatsoever incurred by Porters CA in respect of any claim by a third party arising from or connected to any breach by you of your obligations under this Engagement Letter.

Porters CA shall not be liable for any losses, claims, expenses, actions, demands, damages, liabilities or any other proceedings arising out of reliance on any information provided by you or any of your representatives, which is false, misleading or incomplete. You agree to indemnify and hold harmless Porters CA from any such liabilities we may have to you or any third party as a result of reliance by Porters CA on any information provided by you or any of your representatives which is false, misleading or incomplete.

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Non Warranty

In preparing advice to you in relation to the conduct of a transaction or to support a business decision, we do not warrant or imply (nor should it be construed) that, we will:

- Carry out any form of audit, due diligence or any other form of verification of any of the information supplied to, or relied upon by, us; or
- Review the information in a way which will identify all matters that an audit, due diligence or any other form of verification might disclose, unless such verification is a service explicitly stated in the Engagement Letter to be provided by us.

Email & Portal Communication

As part of our client service we may communicate with you, and with others on your behalf, by email. Email sent without encryption can be intercepted and may be read by a third party. There is also a risk that email may not be delivered or, if delivered, not read by the addressee in good time. To the extent permitted under the law, we shall not be responsible to you nor liable to any person for any loss or damage, including special or consequential damage, whether arising in contract or in negligence, which may arise from or in relation to the use of email, including without limitation, any unintended receipt or interception of an email message. Subject to the limitations imposed upon companies by the law, you also agree to indemnify and hold harmless us and our successors and assigns from and against any and all liabilities, damages, losses, costs and expenses (including reasonable legal fees) which may arise from the use of email in our communication with you or the communication we undertake in the course of carrying out your instructions.

Our preference is for approval documentation to be managed via our MYOB Portal which delivers increased security and efficiency.

You agree to co-operate with all reasonable requests we may make to implement secure communication with us.

Document Retention

You agree that we shall have the right to retain copies of documents relating to the Engagement after the Engagement has ended.

Our document retention policies are in accordance with Australian statutory requirements as follows:

- Corporate records (registers of members, charges, options, etc and minute books of meeting of members and directors) – five years from the date of the last entry.
- Financial records - seven years after the date of the director's report.
- Taxation records – five years after the date on which they were prepared or obtained.

Thereafter, unless separate arrangements have been made, we may destroy or erase the documents or papers without reference to you.

All documents and records created and/or produced by us during the course of our Engagement (except where provided by law) and documents addressed to us are the property of Porters CA.

Fees

Our fees, which will be billed as work progresses, are based on the time required by the individuals assigned to the Engagement plus out of pocket expenses reasonably incurred by us when acting for you. Individual hourly rates vary according to the degree of responsibility involved and the experience and skill required.

Our current hourly charge rates are:

Role	Rate per hour (exclusive of GST)
Director	\$350 - \$400
Manager	\$250 - \$330
Accountant	\$100 - \$240
Bookkeeper	\$90 - \$120
Administration	\$90

If we provide you with an estimate of costs, it is based on the scope of work expected at that time. If the scope of work is incorrect or varies, or the extent of work is greater than expected, then we will provide you with a revised estimate.

In some circumstances we may ask you to pay us an amount in advance to cover expenses or to provide security for our charges.

Where we quote an annual fixed fee our preference is for this to be debited monthly from a nominated bank account or credit card. If your engagement terminates during the year you accept that our timing of work may not be aligned with the timing payment of a fixed monthly fee so we will reconcile the work performed and you will be provided with an invoice or credit note as required to settle your accounts with Porters CA.

Settlement of all invoices is in accordance with our normal Terms of Payment described below.

If the Engagement relates to Services to be provided to two or more persons, each of those persons is jointly and severally liable to pay our fees.

Payment Terms

Our preference is for our invoices to be paid through our secure online portal.

Our terms for payment are 14 days from the date of our fee invoice. Any queries relating to our fee invoice must be raised within 14 days from the date of the fee invoice. We may charge interest on the amount payable under each fee invoice that is not paid within 14 days of the date of the fee invoice. Interest will be calculated on the daily balance which is unpaid from time to time until the date of payment, the rate being the maximum rate charged by our primary bankers on overdrafts in excess of \$100,000.

You may be required, at Porters CA's absolute discretion, to pay on a full indemnity basis any, or part of Porters CA's costs and expenses associated with ensuring payment of any debt due by you to Porters CA, including, but not limited to, commission and fees payable to a mercantile collection agency, solicitor, or the like.

We will direct our fee invoices to the persons or entities to whom this letter is addressed. However, where instructions during the course of our engagement are received from persons or entities other than the persons or entities to whom this letter is addressed and our fee invoices are not paid within the time provided, we may recover payment of our fee invoices from any persons or entities from whom instructions are received on the basis that such instructing persons or entities are jointly and severally liable for the payment of our fees.

If at any time a payment is not made as required, we may suspend all further services until we receive payment or acceptable alternative arrangements are made. Alternatively, while services are suspended, we may stop acting in the matter.

If we do stop acting because of non-payment of our fee invoices, all our fee invoices up to that date must be paid.

Until our fee invoices are paid in full, we may retain your documents, records and other property in our possession.

Goods and Services Tax (GST)

Our fees are quoted exclusive of GST. To the extent that we consider that the supply we make is subject to GST, GST will be charged in addition to the fee quoted and is payable at the same time and in the same manner as the fee quoted.

We will also charge GST on any expenses and/or disbursements that we incur in relation to this engagement.

Termination

With the exception of any engagement where termination rules are prescribed by legislation or professional obligations, or where either of us become the subject of insolvency proceedings or calls any meeting of its creditors (in which case we each may terminate without notice), the Engagement may be terminated by you or us upon the expiry of 14 days written notice to the other. Notice will be deemed served 24 hours after the notice has been sent. We will be entitled to receive payments for all time and costs incurred up to the date of termination, including for time and expenses incurred to bring the engagement to a close in a prompt and orderly manner. We will make every reasonable effort to keep expenditure for this purpose to a minimum.

If we have grounds to suspect that it would be unlawful (under the laws of any part of Australia or under the laws of the jurisdiction where the relevant act would take place) to undertake all or part of the Engagement, we may without notice and at our unfettered discretion, delay all of the Engagement, delay part of the Engagement or terminate the Engagement.

Dispute Resolution

If a dispute arises between you and us in connection with the Engagement, before commencing legal proceedings, all parties will attempt to resolve the dispute in good faith by negotiation. All parties agree to ensure that appropriately senior personnel are available for the purpose of the negotiations.

Force Majeure

We will not be liable for any delays or failures in performance or breach of contract due to events or circumstances beyond our reasonable control, including acts of God, war, acts by governments and regulators, acts of terrorism, accident, fire, flood or storm or civil disturbance.

Severability

In the event that any part of these Terms of Trade and the Engagement Letter of which they form part is held to be invalid or unenforceable, the remainder will continue in full force and effect.

Governing Law and Jurisdiction

These Terms of Trade and the Engagement Letter of which they form part shall be governed by and interpreted in accordance with the laws of Western Australia.

The courts of that state or territory shall have exclusive jurisdiction to settle any dispute which may arise in connection with the Engagement Letter and/or the Services.

Definitions

The following definitions are used in the Engagement Letter and these Terms of Trade: Porters CA is the trading name for a partnership between Porters (Australia) Pty Ltd as trustee for the Porter Family Trust, Porters Financial Pty Ltd as trustee for the Terry Family Trust, Bradley Corp Pty Ltd as trustee for the Bradleys Trust.

References to "you" or "your" are the persons or entities who are our clients for the Engagement.

"Engagement Letter" means the letter and enclosures (including these Terms of Trade) sent to you which set out the basis of our contract with you.

"Engagement" means the Services which we provide pursuant to the Engagement Letter.

"Services" means the professional services delivered to you that are the subject of the Engagement Letter.

"staff member" means a member of Porters CA, consultant employee, director, officer, representative or agent. We (like many other accounting and audit companies) may call the directors of Porters CA "partners" rather than using the legal term "directors". However, legally they are not partners and do not have joint and several personal liability to you. With the exception of liabilities arising from fraud, all liability to you is the sole responsibility of Porters CA itself. You agree that you will not bring any claim in connection with the Engagement or the Services provided against any staff member involved in the performance of the Services.