



## BDO Private Wealth Advisers Pty Ltd (ABN 62 805 149 677, AFSL 238280) Terms of Trade

1. The following information sets out our general Terms of Trade (**Terms**) which should be read in conjunction with your Engagement Letter.
2. You may accept the Engagement Letter by signing it and returning it to us, giving us instructions after receiving it or by verbal acceptance.

### Definitions and effect

3. The following definitions are used in the Engagement Letter and these Terms:
4. In these Terms, BDO Private Wealth Advisers Pty Ltd ABN 62 805 149 677 (AFSL 238280) is referred to as 'BDO', 'us', 'we' or 'our'. We are a member of a national association of separate entities which are all members of BDO Australia Limited ABN 77 050 110 275, an Australian company limited by guarantee. BDO Private Wealth Advisers Pty Ltd and BDO Australia Limited are members of BDO International Ltd, a UK company limited by guarantee, and form part of the international BDO network of independent Member Firms.
5. References to 'you' or 'your' are to the persons or entities who are the addressee of the Engagement Letter or otherwise named as our client in the Engagement Letter.
6. 'Engagement Letter' means the letter and enclosures (including these Terms) sent to you which set out the nature of our engagement and the basis of our contract with you as well as any document sent to you which is stated to supplement them, and includes any Financial Services Guide we may have provided to you.
7. 'Engagement' means the Services which we provide pursuant to the Engagement Letter.
8. 'Intellectual Property Rights' means all intellectual property rights including all current and future registered and unregistered rights in respect of copyright, designs, circuit layouts, trademarks, know-how, confidential information, patents, inventions and discoveries and all other intellectual property as defined in article two of the convention establishing the World Intellectual Property Organisation 1967.
9. 'Loss' means any loss (including loss of profit and loss of expected profit), decrease in value or deficiency of any kind whether indirect, consequential or otherwise, claims, actions, proceedings, demands, damages, obligations or liabilities of any kind.
10. 'Personal Information' has the meaning given in the Privacy Act.
11. 'Privacy Act' means the *Privacy Act 1988* (Cth).
12. 'Professional Standards Legislation' means a law providing for the limitation of occupational liability by reference to schemes that are formulated and published in accordance with that law and includes the *Professional Standards Act 2004* (QLD) and similar legislation in each state and territory.
13. 'Services' means the professional services delivered to you that are the subject of the Engagement Letter.
14. 'Staff Member' means a member, shareholder, consultant, employee, director, officer, representative or agent of BDO. We refer to certain employees of BDO as 'partners' to denote their level of seniority. However, BDO does not operate as a partnership in each State, therefore where the Services are provided to you by a BDO company, these persons do not have joint and several personal liability to you. Similarly, we refer to certain employees of BDO as 'directors' to denote their level of seniority. However, in many cases these people are not formally appointed as directors of any BDO company under the Corporations Act 2001 (Cth).
15. The Engagement Letter which includes these Terms supersedes all previous letters of Engagement regarding the Services.

16. If there is any inconsistency between a provision of these Terms and any other part of the Engagement Letter, the provisions of these Terms will be overridden to the extent of the inconsistency.

**Our commitment to you**

17. 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. The Services are not legal services and do not constitute legal advice.
18. We will assign Staff Members possessing the technical skills and knowledge necessary to ensure work quality and value to the Engagement. If named individuals are not available, we will supply substitutes of equivalent quality and experience. We may subcontract portions of the Services to other BDO Member Firms (including in another jurisdiction) and other third parties without your prior consent and you authorise us to do so. Regardless, we alone will be responsible to you for the performance of the Services and our other obligations under the Engagement Letter, and as such your recourse for any liability is to us alone.
19. We may also need to engage on your behalf other professionals to provide specialist advice or services that are separate from the Services. If such need arises, we will consult you about the terms of Engagement of that professional and may ask you to enter into a costs agreement directly with that professional.
20. 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.
21. We are your independent contractor. We are not in a partnership, joint venture, fiduciary, employment, agency or other relationship with you.

**Your undertaking to us**

22. To maintain our service level to you and reduce the possibility of cost and time overruns, you agree to provide all assistance we reasonably request in a timely manner and with reasonable care, including

disclosing all information relevant to the work being undertaken, providing access to premises and people and providing us with any information we require to meet our anti-money laundering and know your customer obligations (whether internal requirements or obligations under legislation, regulation or professional standards). We will not be responsible for delays caused by a delay in providing such assistance to us, which may also result in you being charged additional fees.

If you require us to use any third party information or Intellectual Property Rights in performing the Services, you must ensure we are permitted by the third party to do so.

23. You must ensure that information provided to us is accurate, complete and not misleading. If anything occurs after information is provided by you to BDO, to render such information untrue, unfair or misleading, you will promptly notify BDO and, if required by BDO, take all necessary steps to correct any announcement, communication or document issued which contains, refers to or is based upon, such information.
24. Where information that is or may be relevant to the Engagement has been provided to someone at BDO other than those individuals who are carrying out the work under this Engagement Letter, you accept that knowledge of that information is not automatically imputed to those individuals and that you will inform the individuals who are carrying out the Engagement of the relevant information.
25. Any reports, opinions and advice will be provided in writing and addressed to you and can only be relied upon by 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. While we may provide you with advice or recommendations, all decisions in connection with the implementation of such advice and recommendations will be your responsibility and made by you.

26. You may not do or allow any of the following without our prior written consent, the giving of which will be at our sole discretion:

- i. disclose, reproduce, refer to in any other document or make available to any third party our reports, letters, information, opinions and advice, or use any of these for any purpose other than that for which they were prepared;
- ii. include a report or other material prepared by us in a public offer document, meeting notice or any other material ('public document');
- iii. make any public statement about the Engagement or name or refer to us or the Engagement in any written materials (including media releases) or publicly filed documents; or
- iv. commit us to provide any opinions, certificates or reports to any third party.

The only exceptions to the above requirements are disclosure to others within your organisation, your related bodies corporate (as defined in the Corporations Act 2001 (Cth)) or your professional advisors on a confidential basis or as required by law, court order or any regulatory or professional body.

27. In respect of 26(ii) above, before providing our consent to any such inclusion in a public document, we will need to review the final draft public document. We must not be taken as having authorised or caused the issue of the whole or any part of the public document, except the report or material we prepared. Our consent relates to the use of our name and report in the context of the whole public document.
28. In the event of any misuse of our name or our report, or where it is inappropriate for our report or material to be included in the public document, we reserve the right to withdraw our consent by written notification to the issuer and to any relevant regulatory authority, including ASIC.
29. We accept no liability or responsibility to any third party in respect of the Services or any reports, opinions or advice given by us as part of the Engagement, unless we agree otherwise in writing.
30. 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. If you wish to rely on oral advice or an oral presentation, you must inform us and we will provide documentary confirmation of the advice concerned.

31. We are not under any obligation to update any advice or report, oral or written, for events occurring after the advice or report has been issued in final form unless otherwise required by law or professional standards.

#### **Projections**

32. During the course of our work we may provide analysis and comments on financial projections. Since financial projections and the assumptions on which they are based relate to the future and may be affected by unforeseen events, we will not express any opinion on how closely actual results will be to those projected. Actual results and cash flows are likely to be different from that projected and the differences may be material.

#### **No verification or review of information**

33. In preparing advice to you, we do not warrant or imply (nor should it be construed) that we will:
- i. 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
  - ii. 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 a matter is a service stated in the Engagement Letter to be provided by us.

### Confidentiality

34. 'Confidential Information' shall mean any information in any form (including any copies and any document which contains, reflects or is derived from Confidential Information) disclosed by or on behalf of 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);
  - (b) was known by the receiving party on a non-confidential basis prior to disclosure;
  - (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.
35. 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, including other entities within the BDO network, on the understanding that they will treat that information as confidential. You and we may disclose Confidential Information as required by law or court order, any regulatory, competition or government authority, or any professional standards, obligations or requirements, or with your express consent. You agree that we will not be in breach of our obligations if we or any of our Staff Members disclose Confidential Information in such a manner.
36. In order to continue to provide leading and relevant services, we may share non-personal and de-identified and aggregated information for research and promotional purposes with third parties. However, we do not otherwise sell to or trade information with third parties.
37. Chartered Accountants Australia and New Zealand in Australia exercises a quality control program in respect of its members. Our files, including the files relating to your Engagement, may be selected at random for external review either by one of the firms

in the BDO network in Australia, by one of our international BDO network firms, or by a nominee of Chartered Accountants Australia and New Zealand, or may need to otherwise be requested by a government body or professional association. You authorise us to provide our files and information relating to the Engagement to such third parties for the purposes of external review.

### Privacy statement

38. At all times BDO is committed to protecting your privacy. Any Personal Information held by BDO for financial, accounting, audit, education or general mailing purposes will only be used by BDO to support your relationship with us, and to ensure you receive the most appropriate range of information and services, and in accordance with our Privacy Policy.
39. Our Privacy Policy and Collection Statement (<https://www.bdo.com.au/en-au/legal-privacy/privacy-policy>) set out in full the purposes for which we collect, use and disclose your Personal Information and your rights of access, correction and complaint in relation to your Personal Information. A hard-copy of our Privacy Policy is available upon request.
40. We will only use your contact details and any other Personal Information that you give us for these purposes. You agree that we may share that information between BDO Member Firms or 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.

### Consent to overseas transfer of Personal Information

41. You consent, acknowledge and agree that any Personal Information that you disclose to us may be disclosed to our subcontractors or third-party service providers and/or stored on infrastructure outside Australia. By accepting our Engagement Letter, you expressly agree and consent to, and will procure the consent of your personnel to, the disclosure or use of any Personal Information outside of Australia in the manner permitted by and as anticipated by the Engagement Letter.

42. By providing this consent, you understand and acknowledge that countries outside Australia do not always have the same privacy protection obligations as Australia in relation to Personal Information, and that Australian Privacy Principle 8.1 in the Privacy Act does not apply to such disclosures.
43. 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. For further information on our privacy policy and complaints process, please read our Privacy Policy (<https://www.bdo.com.au/en-au/legal-privacy/privacy-policy>) on our website. To update your registration information, please contact [privacy@bdo.com.au](mailto:privacy@bdo.com.au) and to make a privacy complaint, please refer to clause 97.
44. You must not provide us with any Personal Information of another individual unless you first make them aware of our Privacy Policy and have their consent to provide such Personal Information to us for the purposes set out in these Terms and the Engagement Letter.

#### **Privacy of European Union (EU) or United Kingdom (UK) residents**

45. You and we agree that if the scope of our Engagement requires that you transfer Personal Data of EU residents or UK residents to us for processing on your behalf, then the provisions in Schedule 1 will form part of these Terms of Trade and will govern our processing of that Personal Data.

If you believe this provision will apply to our Engagement, then before you sign the Engagement Letter, please inform us so we can also provide you with a copy of Schedule 1.

Capitalised terms used in this clause and not previously defined in these Terms of Trade have the corresponding meanings given in Schedule 1.

#### **Credit reporting statement**

46. We may in certain circumstances be a credit provider under the Privacy Act and if relevant, you authorise us to obtain credit information (including credit reporting information) to enable assessment of your application for commercial or personal credit.
47. You acknowledge and agree to your Personal Information and credit information being collected, used and disclosed for and in connection with these purposes and any other purpose set out in our credit reporting policy and our privacy policy, including voluntarily consenting to us providing to a credit reporting body (or a credit provider named in a credit report provided to BDO, or to other persons who offer to act as guarantor) certain Personal Information including credit information about you.
48. We predominantly use credit reporting bodies BVD, illion and Infotrack, whose details and credit reporting/privacy policies are available at [www.bvdinfo.com](http://www.bvdinfo.com), [www.illion.com.au](http://www.illion.com.au) and [www.infotrack.com.au](http://www.infotrack.com.au) respectively.

#### **Credit reporting policy**

49. BDO has a credit reporting policy that sets out the way it manages credit information and credit eligibility information. That policy sets out how you can access your credit eligibility information, how you can seek the correction of your credit information or credit eligibility information, how you may make a complaint and how BDO will deal with that complaint. The credit reporting policy is available on BDO's website ([www.bdo.com.au](http://www.bdo.com.au)) and is also available in hard copy on request. That policy also contains a list of certain matters that we are required to tell you about in accordance with the credit reporting code, (including about your rights to access information and make requests for information not to be used for certain marketing purposes or if you believe you are the victim of fraud).

#### **Ownership of documents and Intellectual Property Rights**

50. All original documents obtained from you shall remain your property. You agree that we may make copies of the original documents in connection with the Engagement and for our records.

51. Unless we otherwise agree in writing, we will own all copyright and other Intellectual Property Rights in all work product (regardless of the form it is in) created by us in connection with the Engagement. You may use and copy our work product created by or in connection with the Engagement, but only for the purpose set out in the Engagement Letter or in our relevant work product.
52. We may use data, software, tools and other methodologies that we own, licence, or have developed in performing the Services (Materials) and you acknowledge that you will not obtain any ownership rights in respect of such Materials as a result of the Engagement.

#### Disclosure to other parties

53. Any publication or work provided by BDO is under Copyright © 2023 BDO.
54. Other than to the extent you retain, distribute, transmit, display or store any publication or work provided by us as part of your internal business systems or for internal business purposes, no part of any publication or work provided by us under the Engagement may be reproduced, published, distributed, displayed, copied or stored for public or private use in any information retrieval system, or transmitted in any form by any mechanical, photographic or electronic process, including electronically or digitally on the Internet or World Wide Web, or over any network, or local area network, without written permission of the author.
55. No part of any publication or work provided by us under the Engagement may be modified, changed or exploited in any way used for derivative work or offered for sale without the express written permission of the author.

#### Conflicts of interest

56. We may act for clients who may compete with or, more rarely, may 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.
57. We will use all reasonable endeavours to avoid the existence of conflicts. We will report any conflict to you as soon as reasonably possible after we become

aware of them and will endeavour to resolve the conflict. For example, we may notify you of the conflict and confirm your consent to continue to provide you with the Services. However, it may be necessary for us to terminate the Engagement where we are unable to resolve the conflict.

58. If you become aware during the course of the Engagement of an actual or possible conflict of interest, you should advise us immediately.

#### Australian Consumer Law

59. To the extent the Australian Consumer Law (as contained in Schedule 2 of the *Competition and Consumer Act 2010* (Cth) (CCA) applies to the supply of Services to you under these Terms:
  - i. you may have certain rights under the Australian Consumer Law and nothing in these Terms should be interpreted as attempting to exclude, restrict or modify the application of those rights; and
  - ii. sections 60-61 apply.
60. BDO's services come with guarantees that cannot be excluded under the Australian Consumer Law. For major failures with the Service, you are entitled:
  - i. to cancel your Service contract with us; and
  - ii. to a refund for the unused portion, or to compensation for its reduced value.
61. You are also entitled to be compensated for any other reasonably foreseeable loss or damage. If the failure does not amount to a major failure, you are entitled to have problems with the service rectified in a reasonable time and, if this is not done, to cancel the contract and obtain a refund for the unused portion of the contract.

### Limitation of liability

62. To the extent permitted by law and without limitation to any other provision of the Engagement Letter, BDO will not be liable for any Loss incurred by you arising directly or indirectly out of or in relation to the Engagement to the extent it:
- i. is not caused or contributed to by us (including due to any act or information provided by you or someone on your behalf or any breach by you of your obligations under the Engagement Letter);
  - ii. arises as a result of an act or event that is beyond our control or was not reasonably foreseeable by us;
  - iii. arises as a result of your failure to mitigate any such Loss;
  - iv. arises as a result of us suspending our services if you do not pay our invoices as agreed; or
  - v. is in respect of loss of revenue or profit, goodwill or data or decrease in value or deficiency of any kind or any indirect or consequential loss (which would for example include loss of business opportunities, loss arising from an interruption to a business or activity, special exemplary or punitive damages and any loss which does not directly and naturally flow from the event causing the liability) regardless of whether or not such loss was in the contemplation of you or us at the time of the Engagement Letter,
- and you release us in relation to any such liability or Loss.
63. Subject to the application of section 59 (if applicable) and any rights you may have under the Australian Consumer Law, to the extent permitted by law and subject to the Engagement Letter, our liability to you for Loss suffered by you in connection with the Engagement or the delivery of Services by us to you is limited to (at our option):
- i. supplying the relevant Services again; or
  - ii. the payment of the cost of having the relevant Services supplied again.
64. If we are liable in connection with these Terms (whether in contract, tort, indemnity or statute), then irrespective of anything else in these Terms, our cumulative liability in the aggregate (to the fullest extent permitted by law) shall in no event exceed:
- i. where a scheme approved under the Professional Standards Legislation applies, in the manner provided by the applicable scheme. Further information on the scheme is available from the Professional Standards Councils' website: [www.psc.gov.au](http://www.psc.gov.au); or
  - ii. where a scheme approved under the Professional Standards Legislation does not apply, to the amount that is the lesser of 5 times the fees paid to us in respect of the Engagement or AUD\$2 million.
65. Where the Engagement Letter is addressed to more than one person or entity ('Addressees'), the limitations of liability in this section apply to the Addressees as a group and it is up to you to decide how the limit is to be allocated between you. You agree not to dispute the limit if you are unable to agree on how it will be allocated between you.
66. To the maximum extent permitted by law, your sole recourse in connection with the Engagement or the Services provided, is against us. You agree that you will not bring any claim in connection with the Engagement or the Services provided against any Staff Member or other BDO Member Firms to whom we have subcontracted portions of the Services or third parties we have used in performing the Services.

67. All liability limitations and releases in the Engagement Letter shall apply equally to and for the benefit of us, Staff Members, other BDO Member Firms we subcontract to provide the Services to you and any third parties we have used in performing the Services and each of them (as well as us) shall have the right to enforce any limitations or exclusions of liability as are available to us in the event of any claim made directly by you against any of them. This Limitation of Liability section and the releases provided by you in these Terms are for the benefit of such persons and we hold that benefit in trust for them, and they may rely on this section as if they were a party to the Engagement Letter.

#### **Email communication**

68. As part of the Engagement, we may communicate with you and with others on your behalf by email or other electronic means and you consent to this. Email and other information shared electronically may be intercepted, corrupted, not delivered, read by a third party, virus-affected or altered without our authority. To the extent permitted by law, we shall not be responsible or liable for any Loss which may arise from or in relation to the use of email or other electronic means and you agree to release BDO from any liability for any and all Loss which may arise from such use of email or other electronic means.
69. You agree to co-operate with all reasonable requests we may make to implement secure email communication and document exchange with us.

#### **Occupational health and safety**

70. In the event that BDO Staff Members are required to visit your premises, you must comply with all occupational health and safety standards, provide a safe place of work and properly instruct and direct our Staff Members so as to ensure their personal safety.
71. Any visiting BDO Staff Members will be required to leave your premises if in their assessment, there is a workplace hazard that endangers their well-being and that hazard cannot be remedied immediately.

#### **Non solicitation of personnel**

72. You will not engage or seek to engage, directly or indirectly, the services of any Staff Member with

whom you have had dealings in connection with the Engagement during the 12 months immediately prior to your approach, (except where the Staff Member responds directly to a general recruitment campaign).

#### **Document retention**

73. It is your responsibility to maintain your records as required by law. We have the right to retain copies of documents (both electronic and paper) relating to the Engagement after the Engagement has ended.
74. We will retain copy documents for our own file retention purposes in accordance with our document retention policy. Where we have agreed to maintain your original files, we will hold these in accordance with the terms set out in the Engagement Letter, otherwise we will not maintain any documents on your behalf. We will destroy or erase our file documents in accordance with our document retention policy without notice to you and you authorise us to do so.

#### **Fees**

75. You must pay us our fees and disbursements in relation to our Services. Unless we agree with you otherwise, our fees are based on the time required by the individuals assigned to the Engagement to undertake it and their hourly rates plus out of pocket expenses including travel, meals and accommodation 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. We revise our hourly rates from time to time. We will give you written notice of changes to our rates which are relevant to the Engagement and the changed rates will apply from the later of the date of the notice or the date set out in the notice. If you are not satisfied with changes to our hourly rates as notified by us, you may terminate the Engagement as set out below.
76. 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 writing.



77. In some circumstances we may ask you to pay us an amount in advance to cover expenses or to provide security for our charges.
78. 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.
79. 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.
80. If we are required to provide information about you or the Services to comply with a statutory obligation, court order or other compulsory process due to your acts or omissions, you agree to pay all of our reasonable costs and expenses we incur in doing so.

#### **Terms of payment**

81. Unless we agree with you otherwise, we will issue fee invoices to you monthly in respect of the Engagement. You must pay our fee invoices 14 days from the date of our fee invoice and if you have any queries relating to our fee invoice, these must be raised in that time. 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.
82. If we agree with you that any fees or disbursements (and any GST), which would otherwise be payable by you, are to be paid by another person, you will nevertheless remain liable for such fees and disbursements (and any GST) to the extent that such person fails to provide them within a time stipulated by us.
83. If you do not pay a debt due by you to us, we may require you to pay on a full indemnity basis any or part of BDO's costs and expenses associated with ensuring payment of such debt. This may include, but is not limited to, commission and fees payable to a mercantile collection agency, solicitor or the like.
84. If at any time a payment is not made as required, we may suspend all further services until we receive

payment or alternative arrangements acceptable to us are made. Further, 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 the date we stopped acting must be paid and you release us from liability for any Loss you may suffer as a result of our suspension of services or us ceasing to act in the matter.

85. Until our fee invoices are paid in full, we may retain your documents, records and other property in our possession. We reserve the right to exercise a lien over these items until our fee invoices are paid in full.
86. You must pay our fee invoices without deduction for any taxes or duties and without any set-off. If you are required by law to withhold or deduct any taxes or duties, the amount of our fee invoice is deemed to be increased so that we receive a net sum equal to the fee invoice.

#### **Goods and Services Tax (GST)**

87. 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.
88. We will also charge GST on any expenses and disbursements that we incur in relation to the Engagement, except to the extent that we incur them as agent on your behalf. If we incur any expenses or disbursements as your agent on your behalf, we will charge you the GST inclusive cost of those expenses and/or disbursements and provide you with sufficient information to enable you to claim an input tax credit (if applicable).

#### **Termination**

89. Other than where termination rules are prescribed by legislation or professional standards and obligations, the Engagement may be terminated by you or us upon the expiry of seven days written notice to the other.

90. Either you or us may terminate the Engagement immediately by written notice if the other becomes the subject of insolvency proceedings or calls any meeting of its creditors or materially breaches the Engagement Letter and such breach cannot be remedied.
91. We may terminate the Engagement immediately by written notice if you do not pay our fee invoices as agreed, if in our view the necessary relationship of confidence between you and us no longer exists or we think it appropriate having regard to professional conduct rules and ethical standards which apply to us. If we have grounds to suspect that it would be unlawful (either here in 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 delay performing all or part of the Engagement or terminate the Engagement at our discretion on written notice to you.
92. Notice will be deemed served 24 hours after the notice has been sent.
93. 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.
94. Any limitation or release of liability and indemnity or any obligation of confidence, obligation to pay fees or reimburse expenses or obligation to notify us of any information being untrue, unfair or misleading and to correct same under the Engagement Letter is independent and survives termination of the Engagement Letter as does any other provisions which generally survives termination of the Engagement including, without limitation, sections 50, 51, 62, 63, 64, 65, 66, 67, 68, 72, 75, 78, 79, 80, 81, 82, 83, 84, 85, 86, 93, 94, 97, 101 and 102.

#### **Assignment**

95. We may transfer, assign or novate our rights in the Engagement Letter to any BDO Member Firm or any successor to our business without your consent where such transfer, assignment or novation would not reasonably be expected to detrimentally affect you, but in any other case both you and we cannot

transfer, assign or novate our respective rights in the Engagement Letter without the consent of the other.

#### **Feedback and complaints**

96. We are committed to meeting your needs and welcome your feedback on all aspects of our service. To provide your feedback, please contact the partner responsible for your Engagement or our Managing Partner, Mr Steven Sorbello (email [Steven.Sorbello@bdo.com.au](mailto:Steven.Sorbello@bdo.com.au)). To make a formal complaint, please refer to our Complaints Policy and submit the BDO Complaints Form on our [website](#). Alternatively, if you have been provided with a Financial Services Guide by us, follow the 'Complaints' information included in the Financial Services Guide.

#### **Dispute resolution**

97. If a dispute arises between you and us in connection with the Engagement, before commencing legal proceedings (other than for interlocutory or interim applications), all parties will attempt to promptly resolve the dispute in good faith by negotiation. All parties agree to ensure that appropriately senior personnel are available for the purpose of such negotiations.

#### **Variation**

98. These Terms may only be varied with the written agreement of both you and us, unless a variation is required to comply with law or applicable professional standards, in which case we will notify you of the variation and the variation will take effect on the later of the date of the notice or the date set out in the notice.

#### **Force Majeure**

99. Neither you nor we will be liable for any delays or failures in performance or breach of contract due to events or circumstances beyond the reasonable control of the party.

#### **Severability**

100. In the event that any part of these Terms or the Engagement Letter is held to be invalid or unenforceable, the remaining parts will continue in full force and effect.

### Governing law and jurisdiction

101. These Terms and the Engagement Letter of which they form part shall be governed by and interpreted in accordance with the laws of Queensland, Australia.
102. The courts of that state or territory shall have exclusive jurisdiction to settle any dispute between you and us in relation to the Engagement or the Engagement Letter.

### Cloud services

103. As part of providing the Services to you, we may refer you to a cloud service ('Cloud Service').
104. Where we refer you to a particular Cloud Service, you must use the referral portal or other link that we provide to you in order to sign up to the Cloud Service. You acknowledge that all Cloud Services are provided by third parties ('Third Party Provider'). This is the case even if you pay us for the provision of the Cloud Services, or if we provide you with access to them. You must comply with the Third Party Providers' standard terms of use in relation to all Cloud Services. You must notify us if you become aware of any breach of these terms.
105. The Cloud Services are outside our control and to the maximum extent permitted by law, we do not have any liability in relation to their provision, except to the extent caused by our use of the Cloud Services on your behalf. Access to the Cloud Services carries inherent risks and we are unable to guarantee their availability or security.
106. You agree that we may use the Cloud Services and contact the Third Party Providers on your behalf. You must do all things necessary to enable us to do so and acknowledge that if you do not do so we may be unable to provide some of our Services to you.
107. You retain ownership of all data which you enter into the Cloud Services, or which we enter on your behalf. You agree that that we may use this data for analytics, benchmarking, reporting and other purposes, provided that we first anonymize the data and use it only as part of an aggregated data set. We will only use your data in accordance with our Privacy Statement. This right will continue even if we no longer provide services to you. You acknowledge that your rights to access your data from the Cloud

Services may be terminated or suspended if you breach these terms or if you fail to pay all amounts owing to us. The Third Party Provider terms may also include termination or suspension rights.

108. Subject to any Third Party Provider terms, on termination of our Services, we will provide you with 30 days access to any Cloud Services for the purposes only of extracting your data. Your data may be deleted by us or the Third Party Provider at any time on expiry of this period.
109. Subject to any Third Party Provider terms, on termination of our Services we will not provide you with a refund for the Cloud Services and you will be liable for any remaining payment for the Cloud Services provided by the Third Party Provider where a minimum payment term applies.
110. You agree that the pricing and any discount on pricing of the Cloud Services are subject to the terms of the Third Party Provider.
111. Cloud services that may be used for carrying out the work under this Engagement Letter are available on our [website](#).

### Modern Slavery

112. In these clauses 112 to 115:
  - i. 'Modern Slavery' has the meaning given to that term in the Modern Slavery Act 2018 (Cth) and as supplemented by definitions in any other modern slavery legislation in Australia.
  - ii. 'Modern Slavery Laws' means all Australian laws regarding Modern Slavery.

113. Both we and you must, and must ensure that each of our respective officers, employees, agents, contractors, sub-contractors and related bodies corporate (as defined in the *Corporations Act 2001* (Cth)) (together, **Representatives**):

- i. comply with all Modern Slavery Laws to the extent that they apply to you or us respectively; and
- ii. immediately notify each other party of any facts or circumstances which may contravene the Modern Slavery Laws, whether that relates to the party or any of its Representatives.

114. Each party represents and warrants that, to the best of its knowledge, having made reasonable enquiries, neither it nor its Representatives:

- i. have been have engaged in any instances of Modern Slavery;
- ii. have been convicted of any offence involving Modern Slavery; and
- iii. have been or are the subject of any investigation, inquiry or enforcement proceedings by any government body regarding any offence or alleged offence of or in connection with Modern Slavery.

115. The parties must comply (and ensure that their respective Representatives comply) with any reasonable requests made by each other party for assistance, for the provision of information or documents as required to enable each other party's own compliance under or related to Modern Slavery Laws.

**Anti-Money Laundering and Know Your Client**

116. You warrant to us that you are in compliance with and will continue to comply with all applicable laws and regulatory requirements including, without limitation, the requirements of any laws or regulations relating to anti-money laundering, counter-terrorism financing, sanctions, bribery or corruption in the jurisdictions in which you are incorporated or carry on business and you will promptly notify us of any issues arising in connection with such laws and regulatory requirements during the Engagement.