

## Client engagement letter for non-individuals

«CreatedDate»

«ClientName»

«PostalAddress»

«PostalCity» «PostalPostcode»

Dear «ContactName»

Thank you for your instructions to attend to the accounting and tax compliance requirements of your group. This letter sets out my terms of engagement and the scope of the work to be performed by me within that engagement and supersedes any previous engagement letter provided by me.

A list of the individuals and entities on whose behalf I will act (the Group) is set out in the accompanying *Schedule of Clients* and my comments below are directed to all those persons.

The provision of tax agent services is governed by the *Tax Agent Services Act 2009* (TASA) and the accompanying regulations. Registered tax practitioners must comply with the requirements of the TASA, which includes a set of ethical and professional standards known as the 'Code of Professional Conduct'. General information about the obligations and responsibilities of tax practitioners to their clients is set out in the attached document, ***Rights and Obligations of the Parties under the Taxation Laws***.

The Tax Practitioners Board (TPB) is responsible for the registration and regulation of tax practitioners and for ensuring their compliance with the TASA. As part of this role, the TPB maintains a register that enables the public to ensure they are engaging the services of a registered tax practitioner. The register also provides details of suspended and deregistered tax practitioners.

To check the details of the tax practitioner responsible for your tax affairs, search the **TPB Register** at [www.tpb.gov.au/public-register](http://www.tpb.gov.au/public-register) using either of the following details:

- Practitioner name – Richard O'Grady
- Registration number – 0942 0000

Taxpayers who engage registered tax agents also have rights and obligations under the taxation laws, including a safe harbour from certain penalties imposed by the Australian Taxation Office (ATO). To qualify for safe harbour protection, taxpayers must provide their registered tax agent with "*all relevant taxation information*" to enable accurate statements to be provided to the ATO. This requirement may be important to both parties in identifying and understanding the purpose and scope of the engagement and may also affect other matters discussed below. You will find a further discussion on the safe harbour protections in the attached document, ***Rights and Obligations of the Parties under the Taxation Laws***.

I recommend that you read this letter carefully and contact Richard O'Grady of this office if you have any queries or wish to discuss it. If the terms of my engagement are acceptable, I ask that **all** persons sign the enclosed copy of this engagement letter in the places indicated and return it to my office.

Please note that I am unable to perform any work for you until I receive the signed copy.

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### 1. Purpose and scope of the engagement

My engagement is to attend to the following tax compliance matters for the Group, as applicable:

- Prepare and lodge Business Activity Statements (BASs).
- Prepare annual financial statements.
- Prepare and lodge annual income tax returns.
- Prepare and lodge annual FBT returns.
- Lodge Single Touch Payroll reports.
- Prepare and lodge annual returns for your self-managed superannuation fund.

Unless otherwise agreed, I will prepare the above returns and statements on an ongoing basis, in relation to the period following that for which the returns and statements have most recently been finalised, and for each subsequent period.

Each client in the Group engages me on the terms set out in this letter and is bound by those terms. Each Group client is jointly and severally liable to pay my accounts, regardless of which Group client the accounts are addressed to and which Group client received the benefit of the work performed.

If I am asked to act for a new or additional client of the Group, I may issue an updated *Schedule of Clients* which each existing Group client agrees will apply in place of any previous schedule. I will also require the new Group client to sign an acknowledgement of these terms of engagement.

My services will be provided to you on a fee for service basis.

This letter relates only to the abovementioned services and details the basis and terms of this engagement. Unless otherwise agreed, my engagement will be limited to the matters described in this letter. Work that is performed or disbursements that are incurred outside the scope of this letter (for example, tax planning services) will be the subject of additional charge.

My engagement commences as soon as you return this letter, and it has been signed as instructed further below.

In addition to any other rights you might have, you can terminate this engagement at any time by telling me in writing. I also reserve the right to do so by providing you with 14 days' written notice. If either party terminates this engagement, the provisions of clause 2.5 (in relation to ownership of documents) of this letter will apply.

### 2. Basis and terms of engagement

My engagement is to assist with the preparation of the financial accounts and the preparation and lodgment of the taxation returns for your Group. This includes the non-trading individual clients in your family (**Individuals**), as well as your trading entities (including individuals, corporate entities, partnerships, trustees and self-managed superannuation entities) (**Entities**).

#### 2.1 Accounting and record-keeping

In undertaking this engagement, you must generally ensure the following (where applicable):



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- The bookkeeping and record-keeping tasks for all Entities is maintained on a regular basis. I recommend these tasks be attended to each week.
- Reconciliations for the bank accounts, debtors and creditors are performed at the end of each month for each of the Entities.
- A stocktake is performed during the last weekend in June for each entity that deals in trading stock.
- The trial balance of each of the Entities will be completed each year.

In respect of the personal tax returns for Individuals, I require that all relevant information be collated and forwarded to my office each year. I shall detail more specific requirements in respect of the Individual tax returns later in this letter.

### **2.2 Taxation services**

In engaging me to provide taxation services, it is important for you to understand the following:

- You are responsible for the accuracy and completeness of the particulars and information provided to me by you.
- Any advice I provide is only an opinion based on my knowledge of your particular circumstances.
- You have obligations under the self-assessment regime to keep full and proper records to facilitate the preparation of accurate returns.
- I cannot provide taxation services if I find that information on which those services are to be based includes false or misleading information, or material information is omitted, and you are not prepared to appropriately amend it to provide me with correct and complete information.

Before I lodge any returns, statements or other documents on your behalf, I will forward them to you or the relevant taxpayer in the Group for approval. I will endeavour to ensure that the returns are lodged by the due dates and will advise you at the beginning of the financial year when documentation should be provided to me. If you are late in providing information, I will do our best to meet the time limits, but I will not be responsible for any late lodgement penalties or interest charges you may incur.

### **2.3 Compilation of financial statements**

By engaging me to compile financial statements, you acknowledge that:

- the reliability, accuracy and completeness of the accounting records are your responsibility; and
- you have disclosed to me all material and relevant information.

You and your employees are responsible for the maintenance of the accounting systems and internal controls for all the Entities. That includes the keeping and maintenance of all required books of account. I cannot be relied upon to disclose irregularities, such as fraud, and other illegal acts and errors that may occur with regard to such matters.

I am not being engaged to conduct a statutory audit of the financial records of any of your Entities and I will not express an auditor's opinion as to the truth and fairness of the financial statements.

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### 2.4 Obligation to correct false or misleading statements

By law, registered tax practitioners must **not** (in any capacity) make a statement to (or prepare a statement that they know or ought reasonably to know is likely to be made to) the ATO, the TPB or another Australian government agency, or permit or direct someone else to make or prepare such a statement, that they know or ought reasonably to know is false, incorrect, or misleading in a material particular, or omits any matter or thing without which the statement is misleading in a material respect.

If I become aware that a statement we made or prepared (or permitted or directed another to do so) to the ATO, the TPB or another Australian government agency on your behalf or on behalf of a client in your Group was false, incorrect or misleading in a material particular (including by omission) at the time it was made, I may advise you to take action to correct the false or misleading statement.

If after a reasonable period of time after providing this advice, I am not reasonably satisfied that you or the relevant Group client has corrected the statement (or provided consent for me to correct the statement) or adequately explained the basis for the statement, I may take further action. In some cases, this may include withdrawing from the engagement and notifying the ATO or the TPB about the matter.

### 2.5 Ownership of documents

The financial statements, tax returns and any other documents which I am specifically engaged to prepare, together with any original documents given to me by you, shall be your property.

Any other documents brought into existence by me, including general working papers, the general ledger and draft documents will always remain my property.

In accordance with our statutory obligations under the TASA, we will also retain all records of the tax agent services provided to each client in the Group. I will retain these records for at least five years after the relevant services have been provided, even if my engagement is terminated.

Furthermore, if my services are terminated (by either party), each client separately agrees that I shall be entitled to retain all documents owned by that client (including all tax refunds of the client that come into our possession) until payment in full of all outstanding fees from all clients in the Group on any account. Where copies of any documents released to you are required for my records, you will be charged for the cost of photocopying at our normal rates.

### 2.6 Additional services

The scope of my engagement is the **preparation and lodgement of the accounting and taxation matters** detailed above. Any agreed fee applies only to services and advice provided within the scope of my engagement. This fee includes checking and forwarding original assessments and payment notices that are received from the ATO and the Australian Securities & Investments Commission (ASIC).

Any additional services or advice that you request are outside the scope of this letter (for example, tax planning services) and are not included in this agreed fee. I will separately advise you of the scope and fee for those services, including any direct out of pocket expenses.

Please note in particular that any correspondence from the ATO or ASIC that does not relate to initial assessments or original payment notices, will be charged as additional services.

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### **2.7 Fees and charges**

My services will be provided to you on a fee for service basis.

Unless otherwise stated in writing, any estimates which I provide to you of our anticipated fees, disbursements and charges for any work are only indicative of the amounts you can expect to be charged. Estimates are not quotes or caps and are not binding on me.

Where an estimate is given and the scope of the work changes, or if it becomes apparent that the work involves matters which were not considered in the estimate, I will endeavour to advise you and provide an amended estimate as soon as it is practicable to do so.

Each client in the Group is jointly and severally liable to pay our fees in respect of all work performed for all clients in the Group. I may require that payment of our fees be guaranteed by one or more persons who are associated with the Group but are not themselves my clients (for example, company directors). If you fail to provide a required guarantee, I may suspend work or terminate this engagement.

Unless otherwise agreed, my invoices will be issued upon completion of work and are payable within 14 days.

### **2.8 Goods and Services Tax (GST) – Professional fees and disbursements**

My professional fees are inclusive of GST. If my services are provided to Individuals or Entities that are registered for GST, then those Individuals or Entities may be able to claim a GST input tax credit for the GST they pay on our services. However, this will not be the case if the services I provide are used by the recipient in making an input taxed supply or otherwise for a non-creditable purpose. In this situation, the GST associated with my professional fees cannot be claimed as an input tax credit.

If your matter involves a mixture of taxable, GST-free and input taxed supplies, I will not apportion my professional fees between these categories of supply unless you have expressly requested me to do so.

Please note that if you make such a request after the commencement of any particular matter, it may not be possible for me to subsequently apportion professional fees that were incurred prior to receiving your request. If you need separate advice on whether you will receive the benefit of a GST input tax credit for the GST paid to me, then please contact me.

#### **2.8.1 Disbursements**

In addition to my professional fees, you will be responsible for payment of expenses which I incur on your behalf (together with the GST that I pay in relation to such expenses), as set out below.

Certain government charges and fees included in some matters undertaken in the scope of my engagement are effectively GST-free to the applicant but will attract the 10% GST if paid by this firm and then passed on to you as part of my services.

Accordingly, for certain disbursements in this category (e.g., ASIC fees, new company and trust deed orders and other specific disbursements notified from time to time), I will act as your agents in incurring those disbursements. You will therefore technically be primarily liable to pay the account to the supplier. Under this agency relationship, you will receive the benefit of any concessional GST treatment of any part of the disbursement.

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Where GST is payable on some or all of a supply acquired by me as your agent, I will forward you the tax invoice and you will be able to claim the input tax credits directly if you are GST-registered (or are required to be GST-registered) and are entitled to claim the input tax credits.

For disbursements incurred in this manner, I may in some cases require that you provide me with separate payments for the relevant amounts to be paid directly to the relevant government body or supplier.

For all other disbursements (e.g., couriers, searches, photocopying, etc.), the treatment will be the same as for professional fees – i.e., I will incur the costs at first instance and invoice them to you after making allowance for any GST input tax credits received by me on the acquisition. These invoices will include GST for which you may be entitled to claim an input tax credit.

### 2.9 Confidentiality

I will take all reasonable steps to keep information acquired as a result of this engagement confidential and will not disclose confidential information relating to clients in the Group without their permission, unless there is a legal duty for me to do so. I will also not use any information acquired as a result of this engagement for my own personal advantage or for the advantage of a third party.

I may also need to disclose information relating to a client's affairs to:

- other clients in the Group to assist in performing my work;
- persons responsible for the governance of an entity to comply with professional standards;
- the relevant parties in order to protect my professional interests in legal proceedings;
- a professional or regulatory body in response to an inquiry or investigation;
- the relevant parties (e.g., the TPB) to comply with technical and professional standards (including ethical requirements); or
- a professional body of which I am member, in relation to a quality review program undertaken by that body.

Each client in the Group hereby authorises me to do so when we consider it appropriate to further my performance of work for the Group, or when requested by the relevant party.

### 2.10 Utilising outsourced services

From time to time, I may use outsourced services (which may include Cloud Computing) to perform some of the services I am engaged to perform for you.

I will notify should I engage with any outsourced service providers.

Where I outsource services to third party providers, I am nevertheless responsible for the conduct and activities of those providers and for the delivery of the services I am engaged to perform for you.

### 2.11 Use of Cloud Computing (that is *not* an outsourced service)

From time to time, I may utilise Cloud Computing in the performance of services under this engagement which is **not** an outsourced service.

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The list of cloud computing service provider(s) currently used by me in the provision of services which is not an outsourced service, to whom client information will or may be disclosed, is as follows:

- Xero
- Class Super
- FYI Document Manager

I will notify you of any change to this list from time to time.

Each client in the Group hereby authorises me to disclose information relating to those clients' affairs to such Cloud Computing service providers as I may choose to engage.

### **2.12 Non-compliance with Laws and Regulations (NOCLAR)**

During the performance of my work under this engagement, I may detect conduct or a transaction that is considered to constitute NOCLAR, which has a material effect on any documents or information that might be required to be provided to a regulatory authority (RA), such as the ATO.

If I detect any NOCLAR, I may have a professional requirement to make a disclosure to a RA. We will follow a formal process which will include advising you of my concerns and, if necessary, seeking legal advice. If I do seek legal advice, I reserve the right to ask you to pay or reimburse me for my reasonable costs.

If I am required to make a disclosure to a RA, you agree to forever release me from any claim for costs or losses you incur in responding to or dealing with anything that arises from our disclosure.

### **2.13 Losses from unauthorised cyber-activity**

I will take all reasonable precautions to ensure that any electronic data that contains your private information is securely stored and that any email transmissions are protected and are not able to be intercepted by third parties. However, I cannot be held liable for any loss that you might incur as a consequence of any third-party intervention that accesses, procures or copies any data that contains your private information from any medium or device I use to store or transmit such information.

In the event that, despite me having taken reasonable precautions to securely store your private information, you suffer any losses arising from unauthorised cyber-activity, you agree to forever release me from any claim for your losses.

### **2.14 Conflicts of interest**

I will inform you if I become aware of any conflict of interest in my relationship with you (including between any of the individuals and entities in your Group that are covered by this engagement letter) or in my relationship with you (including members of your Group) and another client of me.

Where conflicts are identified which cannot be managed in a way that protects the interests of you or any members of your Group, then I may be unable to provide further services to some or all of the persons to whom this engagement applies. If this arises, I will inform you promptly.

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### **2.15 Complaints**

If you have a complaint about my services, I ask that you contact Richard O'Grady of this office. I will work with you to help resolve your complaint as quickly as possible.

If I cannot resolve the issue or you are not satisfied with how I have handled your complaint or with the outcome, you may be able to escalate the matter to the TPB. Complaints to the TPB must be made in writing using its online form, which is available at [myprofile.tpb.gov.au/complaints/](https://myprofile.tpb.gov.au/complaints/)

Note, not all complaints can be acted on by the TPB. For example, if your complaint is about fees, you will be asked to contact Consumer Affairs or the Office of Fair Trading in your State or Territory. However, the TPB may be able to assist if the fee complaint is associated with inappropriate conduct by me. Details about making complaints to the TPB are available at [www.tpb.gov.au/complaints](https://www.tpb.gov.au/complaints)

### **2.16 Professional indemnity insurance**

I maintain adequate professional indemnity insurance cover and that my policy complies with the minimum requirements of the Tax Practitioners Board (TPB).

### **2.17 Limitation of liability**

My liability may be limited by a scheme approved under Professional Standards legislation and applicable regulations of the Professional Body.

## **3. Details of services to be provided**

I now outline the basis of my engagement in the context of the specific services to be provided.

It should be noted at the outset that, as a general proposition, I rely upon my clients to provide me with accurate and timely information to enable me to properly perform my engagement obligations. Consequently, any rectifying work performed by me on the basis of incorrect or late information will be work which is outside the scope of this engagement and will be charged as additional services.

### **3.1 BAS returns**

As the BAS returns are prepared monthly/quarterly and lodged during the financial year, it is not possible for me to review the correctness of the underlying financial information as part of the preparation of the BAS return. This is because I am engaged to prepare the annual accounts, and these are prepared after the conclusion of the financial year.

Therefore, for the BAS returns, I will rely on and process the financial information provided to me without any review of the primary source documents. In doing that, I will make the following assumptions:

- The financial information provided to me is accurate.
- The financial information correctly states the GST position. For example, all input tax credits and GST payable amounts have been correctly recorded in the general ledger. If you are unsure of the correct position or require advice regarding this, I am able to provide this as work which is outside the scope of this letter and charged as additional services.

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- You have the necessary supporting documentation to satisfy the ATO for GST purposes. Again, if you are unsure of the ATO requirements or require advice regarding these documents, I am able to provide this as work which is outside the scope of this letter and charged as additional services.
- You hold valid tax invoices and adjustment notes for all expenditure incurred by you in respect of which an input tax credit is being claimed. Substantial penalties apply for an incorrectly prepared BAS. If you have any queries in respect to this, please contact my office for assistance.

However, it is possible that when the financial accounts are prepared, some discrepancies will exist between the information disclosed in the BAS returns and in the annual financial statements. Should any discrepancies arise, I will discuss the need to correct the BAS returns and/or financial accounts. This will involve work which is outside the scope of this engagement and will be charged as additional services.

### 3.2 Financial accounts

I have been engaged to prepare the annual financial accounts of the Entities in your Group. This service includes the preparation of:

- a profit and loss statement;
- a balance sheet; and
- notes for the above accounts.

This service includes maintenance of the chart of accounts for the general ledgers of your Entities, and telephone support should you require any assistance as to how to record specific transactions in the general ledger. This service also includes the preparation and lodgement of any standard reports that are required to be furnished to ASIC.

However, this service does not include the preparation of one-off accounts for presentation to your financiers for additional finance and the like.

### 3.3 Income tax returns

I have been engaged to prepare and lodge income tax returns for your Group.

However, I will not be responsible for reviewing or verifying any financial records or statements provided to us, either via manual cashbooks or prepared on accounting software such as MYOB, Xero or Quickbooks. Correct coding or classification of accounts is outside the scope of this engagement. If assistance is required on how to correctly code, or to review how you currently do so, please discuss this with me. This will entail work which is outside the scope of this engagement and will be charged as additional services.

Also please ensure that you have all source documentation available to allow me to analyse the income tax implications of any transaction, if I request to see it. Whilst I will not as a matter of course be looking at these documents, the ATO will expect you (and you are required) to have them available before any claim is made in your income tax return. I may in some circumstances also request to see source documents if a tax issue is particularly contentious.

It is also expected that, in respect of individual income tax returns, each person will have the necessary documents so as to comply with the substantiation provisions of the *Income Tax Assessment Act 1997*. I will specifically advise as to the requirements of the substantiation provisions relating to your income tax return and of the necessity to obtain acceptable receipts as required by the legislation.

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I will not, however, be checking that the requirements of the substantiation provisions have been satisfied. This means that I will not be reviewing your logbook or any calculations or information you provide me with, such as a rental property schedule either prepared by you on a spreadsheet or by a property manager. If you require assistance in completing a logbook or preparing any calculations, or you would like me to review such work, please discuss this with me. This will entail work which is outside the scope of this engagement and will be charged as additional services.

From time to time, we prepare templates and schedules to assist with the collation of information to complete income tax returns. These will be provided free of charge.

The fee for this service does not cover any inquiries made to me, or investigations involving me, conducted by the ATO. Substantial penalties apply for an incorrectly prepared income tax return. If you have any queries in respect to this, please contact my office for assistance.

### **3.4 Fringe Benefits Tax (FBT) returns**

My firm may be engaged to prepare and lodge the FBT returns for your Entities.

Please note that, because of the impact of GST, it is not possible to prepare an FBT return from the information contained in the general ledger. It is necessary to revert to the source documentation to allow me to analyse the FBT implications of any transaction.

My fee for this service includes the following:

- Advice on how to collate the information necessary to prepare the annual FBT return.
- An annual review of the methods available to reduce the FBT expense on the annual FBT return.
- Telephone advice on basic FBT issues.
- The calculation of Reportable Fringe Benefits Amounts that may be required to be included on the annual income statements or payment summaries for your employees (including family members employed in the business of any Entity).

### **3.5 Single Touch Payroll (STP) reports**

I will prepare and lodge STP reports when requested with the ATO for the Group, based on the information provided to me by you, your employees or any third party authorised by you, without reviewing or verifying the payroll calculations, any relevant wage rates or the source documents relied upon to process each STP pay event.

I will only provide a lodgement service. I make no representations about the accuracy of the information submitted, the due date or whether it is received by the ATO. I am not being engaged to perform, or check the accuracy of, payroll calculations associated with the STP reports. You and your employees are responsible for correctly preparing and processing each pay event, and for maintaining the necessary supporting documentation.

You and your employees are also responsible for calculating and remitting your PAYG withholding and Superannuation Guarantee liabilities with respect to each employee, for each relevant pay event.

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### 3.6 SMSF annual return

I may be engaged to attend to the income tax compliance work for your self-managed superannuation fund (SMSF). This assignment will involve the following:

- Preparation of the SMSF's accounts for the purposes of the *Superannuation Industry (Supervision) Act 1993* (the SIS Act).
- Preparation and lodgement of the SMSF annual return. It is important to note that, as part of the regulatory framework for SMSFs, an annual audit of the fund must be undertaken and provided to the trustees of the fund before the SMSF annual return is lodged. Therefore, trustees of the fund must ensure that they provide the fund accounting records no later than 31 March each year to allow these tasks to be completed.
- With respect to the annual audit of the SMSF referred to above:
  - (a) this office will make arrangements for the audit to be undertaken by an external party, All Super, whereby you will be billed directly and liable for all costs associated with the completion of the audit.

In addition to the basic financial information required to complete these requirements, it is expected that the source documentation will be available to allow me to analyse the implications of any superannuation-related transaction.

You should also note that the SMSF's deeds should be annually reviewed by a superannuation specialist to ensure they continue to comply with the requirements of the SIS Act. My engagement does not extend to the provision of such legal advice and my fee does not include this service. I am happy to recommend the services of a superannuation specialist for this task.

This service does not cover any inquiries or investigations by the ATO.

### 3.7 Superannuation-related financial advice

I do **not** hold an Australian Financial Services Licence, and I am **not** an authorised representative of such a licence holder.

As a result, I am generally prohibited from providing you with any advice, recommendation or opinion that is intended to influence you in making any decision in relation to superannuation (including whether to establish, contribute to or draw benefits from a superannuation fund, or any investment decision by a superannuation trustee), or that could reasonably be regarded as being intended to have such an influence (**Financial Advice**).

However, I am able to provide you with superannuation advice that is of a factual nature only (e.g., to explain how superannuation rules would apply to you and what options are available to you).

Where you request me to undertake superannuation-related work (e.g., to arrange for the establishment of a self-managed superannuation fund), I will be obliged to perform that work in accordance with your instructions, even if I believe those instructions may not be in your best interest.

Where you request Financial Advice concerning superannuation, I will endeavour to assist you in obtaining that advice from an appropriately licensed advisor. Depending on the circumstances, this may involve me outsourcing the provision of the Financial Advice (in which case I would seek your prior authorisation) or referring you to a licenced provider directly.

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### 4. Agent nomination process – Client-to-agent linking

The ATO requires all taxpayers with an Australian Business Number (excluding sole traders) to undertake certain steps to nominate a registered tax or BAS agent. This process is referred to as Client-to-agent linking (CAL) and, importantly, it must be completed by the taxpayer seeking to nominate an agent. It cannot be done by agents on behalf of their clients.

Please notify me as soon as the nomination process is completed by each client in your Group. I will then have 28 days to connect to the client on the ATO's systems. Please note that I cannot perform any work for a client who has not successfully completed the client-to-agent linking nomination process.

You will find further information and details of the steps that each of the above clients will need to take to nominate me in the document, **Client-to-agent linking proforma**, which accompanies this letter.

### 5. Authorisation of ATO digital communication preferences

Each client in the Group agrees to have the following ATO communication types sent digitally to their registered tax agent, being Aitken O'Grady, where applicable:

- Income tax.
- Superannuation.
- Study and training support loans.
- Activity statement related.
- Debt.

I hereby authorise Aitken O'Grady to change or withdraw my preferred address for service of ATO communications.

I declare that the information supplied by me to Aitken O'Grady for the setting or updating of these communication preferences is true and correct.

### 6. Other prescribed events and matters to be aware of

I am required to advise if certain prescribed events have occurred within the last five years (but not before 1 July 2022). This will enable each client in the Group to make a fully informed decision on whether to engage or re-engage Aitken O'Grady to provide tax agent services.

(a) I advise there are currently no matters that I am required to report to you and the Group.

I am also required to advise whether the tax registration of Aitken O'Grady is subject to any conditions.

(a) There are no conditions attached to our registration.

### 7. Confirmation of engagement

Obviously, there are many issues to consider in this engagement, and I ask that you consider all aspects of this letter to ensure that you are satisfied with the scope of my engagement. Please contact me if you have any queries about this letter.

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If you are satisfied with the terms of this letter, please have all persons print, sign and date two copies of this letter in the places indicated. One copy should be forwarded to us as evidence of your acceptance of the terms of our engagement. You should retain the other copy as your evidence of our engagement.

I note again that I am unable to perform any work for you until I receive the signed letter and have been successfully nominated as agent via the ATO's client-to-agent linking process by specified clients in your Group.

I thank you for the opportunity to provide accounting and taxation services to your Group and I look forward to developing a close accounting relationship with you for many years to come.

Your sincerely

AITKEN O'GRADY

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### Schedule of Clients

#### Acknowledgment of terms of engagement

We, the parties named in the Schedule, confirm that we understand and agree to your terms of engagement, and acknowledge our responsibilities as set out in the terms of engagement.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

#### **Individuals:**

| Name                 | Signed                      |
|----------------------|-----------------------------|
| <i>[insert name]</i> | .....<br>(Individual signs) |

*(duplicate as required)*

#### **Companies:**

| Name  | Signed                    |
|---|---------------------------|
| <i>[insert company name and ACN or ABN]</i> | .....<br>(Director signs) |

*(duplicate as required)*

#### **Partnerships/Joint Ventures:**

| Names  | Partnership/JV   | Signed   |
|--|--|--|
| <i>[insert name of each partner or joint venturer]</i> | <i>[insert name of partnership or joint venture and ABN]</i> | .....<br>(Individual partner/venturer or director of corporate partner/venturer signs) |

#### **Individuals who act as trustees or nominees:**

| Name                 | Trust or superannuation fund                                 | Signed                      |
|----------------------|--|-----------------------------|
| <i>[insert name]</i> | <i>[insert name of trust or superannuation fund and ABN]</i> | .....<br>(Individual signs) |

*(duplicate as required)*

#### **Companies which act as trustees or nominees:**

| Name  | Trust or superannuation fund                                 | Signed                    |
|---|--|---------------------------|
| <i>[insert company name and ACN or ABN]</i> | <i>[insert name of trust or superannuation fund and ABN]</i> | .....<br>(Director signs) |

## Client engagement letter for non-individuals

*(duplicate as required)*

# Rights and obligations of the parties under the taxation laws

Dear Client,

As a client or prospective client of this practice, I am required to advise you of your rights and obligations under the taxation laws in relation to the tax or BAS agent services I provide to you.

It is also important that you understand my obligations as a tax or BAS agent, including to you, under the taxation laws (including the *Tax Agent Services Act 2009* and the Code of Professional Conduct contained within that Act) and your obligations to us.

## Your rights and obligations under the taxation laws

Set out below is a brief explanation of the main areas of the taxation system you need to understand. If you have any concerns or issues with any of the matters discussed below, please feel free to contact me.

### Operation of the self-assessment system

Australia's tax system operates on a self-assessment basis. This means that when your income tax return, Fringe Benefits Tax ('FBT') return or Business Activity Statement ('BAS') is lodged, the Australian Taxation Office ('ATO') accepts the information provided in the return at face value and issues you with an assessment notice based on that information.

However, this does not mean the assessment is final as the ATO can conduct a review or audit of the information provided in the return at a later time, subject to the time limits discussed below.

Importantly, as a taxpayer, you have an obligation to comply with the taxation laws. If you do not meet your obligations under the taxation laws, the ATO may impose administrative penalties (fines), apply interest charges, seek criminal prosecutions (in some cases) or initiate debt recovery.

### Commissioner's ability to amend an assessment

While the ATO accepts the information lodged in your return at face value, it can amend the assessment if the ATO finds it to be incorrect. The following time limits generally apply for amending an assessment:

#### Individuals

- For most individuals, the ATO can amend an assessment within **two years** after the individual receives their notice of assessment. However, if an individual carries on a business and is **neither** a Small Business Entity ('SBE') (broadly, a business with an aggregated turnover of less than \$10 million) nor a Medium Business Entity ('MBE') (broadly, a business with an aggregated turnover between \$10 million and less than \$50 million), then that period extends to **four years**.
- If an individual is a partner in a partnership or a beneficiary of a trust, the amendment period is generally two years. However, if a partnership or trust carries on a business and is **neither** an SBE nor an MBE, then the amendment period extends to four years.

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### Companies

- The ATO can amend a company assessment within two years after a notice of assessment is deemed to have been made where the company **is** either an SBE or an MBE.
- If the company is a partner in a partnership or a beneficiary of a trust, the amendment period is two years. However, if the partnership carries on a business and is **neither** an SBE nor an MBE, that period extends to four years. If the trust is **neither** an SBE nor an MBE, the amendment period also extends to four years.
- In most other cases, the amendment period is four years.

### Trustees

- The ATO can amend an assessment within two years after the trustee receives the notice of assessment if the trust **is** either an SBE or an MBE.
- If the trustee is a partner in a partnership or a beneficiary of a trust, the amendment period is two years. However, if the partnership carries on a business and is **neither** an SBE nor an MBE, that period extends to four years. If the trust is **neither** an SBE nor an MBE, the amendment period also extends to four years.
- In most other cases, the amendment period is four years.

If the ATO amends an assessment, this will potentially involve increased taxes, penalties and an interest charge. If you discover an error in the information declared in the return, lower penalties generally apply for making a voluntary disclosure.

*Note that there are no time limits on the ATO amending an assessment where it believes there has been fraud or evasion.*

### Obligation to keep records

The tax laws specifically require taxpayers to keep records that properly explain the transactions they have entered into.

### Individuals

Individuals claiming deductions for work-related expenses are subject to the substantiation rules in the tax laws. These require taxpayers to keep receipts, invoices etc., of the expenses they incur. Where the expenses relate to a taxpayer travelling interstate or overseas, a travel diary may also need to be kept. Where the expense relates to a motor vehicle, a record of the journeys taken such as a logbook may need to be kept.

A failure to keep the appropriate records can lead to the ATO denying a particular deduction which may involve the imposition of penalties and interest. Substantiation records must be retained for five years.

### Businesses

The tax laws specifically require a taxpayer that carries on a business to keep documents that record and explain all the transactions they have entered into. These include all the documents that explain how the income and expenditure of the taxpayer was determined.

## **Client engagement letter for non-individuals**

Where the tax laws allow or require a taxpayer to make a choice, election, estimate or calculation, documents containing particulars of these matters must be kept.

All these records must be retained for a period of five years. There are penalties for taxpayers who fail to do so.

### **Obligation to provide complete and accurate records**

For me to be able to lodge returns on your behalf, it is your responsibility to provide me with truthful, complete and accurate records. Furthermore, in order to lodge your return on time, I will require you to provide me with the relevant information as and when requested.

Where you are unable to provide me with complete and accurate records, we may be unable to prepare and lodge your return. Tax agents are subject to a Code of Professional Conduct contained in the *Tax Agent Services Act 2009*, which prevents me from acting for a client where insufficient records or information exist that allow me to determine the amount of a client's income or deductions.

I also reserve the right to question any claims for deductions or credits that in my reasonable judgment might be considered as being excessive, and I may ask for more substantiation or records to prove that such a claim is allowable under the law.

If I believe that a claim is excessive and it cannot be substantiated, I reserve the right not to include such a claim in your income tax returns or BAS, but you will have the right to lodge an objection after receiving your notice of assessment. There may be further costs in doing so, and I will advise you accordingly.

### **Records for clients operating in the cash economy**

Due to the ATO's on-going concerns with dealings in the cash economy, the ATO has a program of 'benchmarking' standardised revenue returns for a wide range of small businesses.

In circumstances where the ATO is dissatisfied with a taxpayer's records or recording systems, it may assess income tax and/or GST on what it considers to be an appropriate 'benchmark' amount (plus penalties and interest). Once this occurs, it is the responsibility of a taxpayer to demonstrate that the assessment is excessive and identify the correct tax position. One of the major problems with this outcome is that the onus of proving that the ATO's assessment is excessive (i.e., the taxpayer did not earn that much income) is the responsibility of the taxpayer.

Taxpayers who operate in the cash economy are therefore urged to have a robust and reliable system for recording and reporting all cash transactions and ensuring that the recorded figures are accurate. If you need assistance in setting up or reviewing your recording and reporting systems, I am happy to do so and will advise you of my rates for doing so on request.

### **Right to seek a Private Binding Ruling**

When preparing your return, I may identify one or more issues that are not clear under the tax laws. Where I have pointed out such issues to you, you have a right to request a Private Binding Ruling from the ATO. The ATO will provide you with a ruling setting out its view on the proper tax treatment of the issue requested in the Private Binding Ruling.

## **Client engagement letter for non-individuals**

### **Objecting against an assessment**

If the ATO issues you with an assessment that you do not agree with, you have the right to lodge an objection against that assessment. The objection must be lodged with the ATO within either two or four years. The period which applies is determined as discussed above.

Where the ATO issues an amended assessment, the period for objecting is the greater of:

- 60 days from the time the amended assessment is received; or
- two or four years (whichever is applicable) from the time the original assessment was received.

If you remain dissatisfied with the outcome of the objection, you have the right to have the matter reviewed by the Administrative Review Tribunal or appeal the matter to the Federal Court.

### **Onus of proof falls on the taxpayer**

It is important to be aware that in any disputed assessment before the court or the Administrative Review Tribunal (whether initiated by the taxpayer or by the ATO), the onus of proof is placed on the taxpayer. In other words, if the Commissioner asserts that your income should include a certain amount or that a deduction claimed in a return is not allowed, it will be up to you to establish that the Commissioner's view is incorrect and the correct treatment.

### **Safe harbour protection**

As the client of a registered tax agent, under the taxation laws, you have a statutory 'safe harbour' exemption from penalties imposed by the ATO in certain circumstances.

To ensure you are eligible to benefit from the safe harbour, it is a requirement that you provide me with all relevant tax information. This includes any records, or documents we request from you plus any other information relevant to the preparation of your tax return. The information provided must be truthful, complete and accurate.

It is equally important that you provide me with this information by the time it is requested to allow the return to be lodged by its due date. The safe harbour from late lodgment penalties can also apply where a Business Activity Statement, Instalment Activity Statement, or FBT return is lodged late.

A taxpayer who is eligible for the safe harbour protection will not be subject to any penalties for errors identified in their tax return, although the underlying tax and interest charges will still apply.

### **Your tax practitioner's obligations**

The *Tax Agent Services Act 2009* ('TASA'), including the Code of Professional Conduct contained within the TASA, provide statutory protections for taxpayers who engage registered tax practitioners.

The Code of Professional Conduct is a set of statutory ethical and professional standards that registered tax practitioners must comply with.

The TASA, including the Code of Professional Conduct, and associated regulations and determinations are administered by the Tax Practitioners Board ('TPB').

## Client engagement letter for non-individuals

I am required under the Code of Professional Conduct to provide you with general information about the obligations that tax practitioners have to their clients under the taxation laws, including the TASA and the Code of Professional Conduct.

The following information has been adapted from the TPB's factsheet, [Information for Clients](#) for these purposes.

### Your tax practitioner's obligations require them to:

- act lawfully in your best interests and with honesty and integrity in the performance of my duties;
- uphold and promote the ethical standards of the profession;
- manage any conflicts of interest;
- take reasonable care to ascertain your state of affairs and apply tax laws correctly;
- keep your information confidential unless there is a legal duty to disclose;
- provide services competently;
- not knowingly obstruct the administration of the tax laws;
- advise you of your rights and obligations under the taxation laws (refer above);
- account to you for money or other property on trust;
- not make false or misleading statements to the TPB or the ATO, and in some cases, withdraw our engagement with you and notify the TPB or ATO of certain matters;
- address any false or misleading statements I am responsible for;
- engage with clients to address other false or misleading statements, exploring options to correct;
- keep proper records (including records of tax agent services provided);
- keep you informed of certain matters so you can make informed decisions.

### If your registered tax practitioner fails to meet their obligations:

- their registration can be suspended or terminated, meaning they cannot practice;
- they could receive a caution or orders from the TPB – for example, undertaking education or working under the supervision of another registered tax practitioner;
- have fines imposed on them by the Federal Court;
- your tax and superannuation matters may not be accurate;
- you may be subject to enquiries or audits;
- any tax shortfalls may attract penalties and interest;
- you may have litigation options to review decisions and recover debts;

in the case of fraud or criminality, penalties may lead to prosecutions.