

# **BGL Partners**

## **Chartered Accountants**

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**Standard Terms & Conditions**  
Non-audit Engagements



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## Standard Terms & Conditions – Non-audit Engagements

### 1. Care and diligence

We will provide the Services agreed with you with the degree of skill, care and diligence expected of a professional providing services of the same kind.

### 2. Who may instruct us

You confirm that you, and any other person you nominate in writing from time to time (provided we have acknowledged such nomination), are authorised to give us instructions and information on behalf of all persons we are acting for and to receive our advice and documents on their behalf.

If we are acting for a business, and we receive conflicting advice, information, or instructions from different persons, we may refer the matter to the board of directors, partners, or proprietors (as applicable) and act only as requested by them.

### 3. You and your spouse/partner and fellow trustees/directors

We will advise you and your spouse/partner and fellow trustees/directors on the basis that you are a family unit with shared interests. We may deal with either of you and may discuss with either of you the affairs of the other(s). If you wish to change these arrangements, please let us know.

### 4. Know your client

We may be required to verify your identity for the purposes of the anti-money laundering laws. We may request from you such information as we require for these purposes and make searches of appropriate databases.

### 5. Our responsibility

We are not responsible to anyone (apart from you) who is provided with or obtains a copy of our work without our written consent. We will comply with the professional and ethical standards of the Accounting Professional and Ethical Standards Board, available at [apesb.org.au](http://apesb.org.au). This includes APES 110 *Code of Ethics for Professional Accountants (including Independence Standards)*, which among other things contains provisions that apply if we become aware of any actual or potential 'non-compliance with governing laws or regulations' (NOCLAR). Where any such non-compliance poses substantial harm (such as serious adverse consequences to investors, creditors, employees, auditor, group auditor or the public), we may be required to disclose the matter to an appropriate authority.

### 6. Your responsibility

You must provide us with all information necessary for dealing with your affairs including information which we reasonably request, in sufficient time to enable our services to be completed before any applicable deadline. We will rely on such information being true, correct, and complete and will not audit the information.

You authorise us to approach such third parties as may be appropriate for information that we consider necessary to deal with your affairs.

You must keep us informed on a timely basis of changes in your circumstances that may affect our services.

### 7. Qualifications on our services

To the extent our services involve the performance of services established by law, nothing in the engagement letter or these terms reduce our obligations under such law.

You must not act on advice given by us on an earlier occasion without first confirming with us that the advice is still valid.

Our services are limited exclusively to those you have engaged us to perform. Unless otherwise specified in the engagement letter, our services cannot be relied upon to disclose irregularities and errors, including fraud and other illegal acts, in your affairs. [Neither an audit nor a review will be conducted by BGL Partners and, accordingly, no assurance will be expressed.]

Where our engagement is recurring, we may amend our engagement letter and these terms where we consider it is necessary or appropriate to do so. If you do not accept such amendments, you must notify us promptly in which case you may terminate our engagement in accordance with section 18 below and those amendments will not apply prior to such termination.

### 8. Reliance on advice

We will endeavour to record all advice on important matters in writing. Advice given verbally is not intended to be relied upon unless confirmed in writing. If we provide verbal advice (for example during a meeting or telephone conversation) that you wish to rely on, you must ask us to confirm the advice in writing.

### 9. Investment and financial advisory advice

We will not provide you with investment or financial advice regulated under the *Corporations Act 2001* (Cth). BGL Partners do not hold an Australian Financial Services Licence ("AFSL"), nor are we an authorised representative of the holder of an AFSL.

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## **10. Conflicts of interest**

We will inform you if we become aware of any conflict of interest in our relationship with you (including between the various persons this engagement letter covers) or in our relationship with you and another client. Where conflicts are identified which cannot be managed in a way that protects your interests then we will be unable to provide further services to some or all of the persons to whom this engagement applies. If this arises, we will inform you promptly.

We may act for other clients whose interests are not the same as or are adverse to yours, subject to the obligations of conflicts of interest and confidentiality referred to above.

## **11. Fees and payment**

We will invoice you when our work has been completed. Our fees will be charged on the basis set out in the engagement letter and have been set based on the level of skill, responsibility, importance, and value of the advice, as well as the level of risk.

If we have provided you with an estimate of our fees for any specific work, this is an estimate only and our actual fees may vary.

We may provide a fixed fee for the provision of specific services. If it becomes apparent to us, due to unforeseen circumstances, that a fixed fee is inadequate, we may notify you of a revised figure and seek your agreement to it.

In some cases, you may be entitled to assistance with your professional fees, particularly in relation to any investigation into your tax affairs by the ATO. Assistance may be provided through insurance policies you hold or via membership of a professional or trade body. Other than where such insurance was arranged through us, you will need to advise us of any such insurance cover that you have. You will remain liable for our fees regardless of whether all or part are to be paid by someone else.

We will bill upon completion of the engagement and our invoices are due for payment within 14 days of issue. Our fees set out in our engagement letter are inclusive of GST. Any disbursements and expenses we incur in the course of performing our services will be added to our invoices where appropriate.

Unless otherwise agreed to the contrary or specified in the scope of services in an engagement letter, our fees do not include the costs of any counsel, or other professionals or third parties engaged with your approval.

We reserve the right to charge interest on late paid invoices at the rate of 5% above the RBA cash rate per annum. We may also suspend our services or to cease to act for you on giving written notice if payment of any fees is unduly delayed.

Any accounts unpaid after 30 days may be referred to an independent debt collection service. By using our services, you agree to pay any additional associated collection fees including GST

We intend to exercise these rights only where it is fair and reasonable to do so.

## **12. Lien**

If permitted by law or professional guidelines, we may exercise a lien over all materials or records in our possession relating to all engagements for you until all outstanding fees and disbursements are paid in full.

## **13. Confidentiality**

We will take all reasonable steps to keep your information confidential, except where:

- we need to disclose your information to our service providers (including auditors of client monies if applicable) or regulatory bodies in performing the services, our professional advisers, or insurers or as part of an external peer review from time to time. Our files may also be subject to review as part of the quality review program of Chartered Accountants Australia and New Zealand and/or CPA Australia. By accepting this engagement, you acknowledge that, if requested, our files relating to this engagement will be made available under this program. We will take reasonable steps to ensure any such recipient (other than a regulatory body) keeps such information confidential on the same basis.
- we are required by law, regulation, a court of competent authority, or those professional obligations referred to in section 8 above, to disclose the information.
- we provide limited information (but only to the extent reasonably necessary) to potential purchasers (or their professional advisers) of our practice but we will take reasonable steps to ensure that any such recipient keeps the disclosed information confidential; or
- you give us permission to disclose the information.

We may retain your information during and after our engagement to comply with our legal requirements or as part of our regular IT back-up and archiving practices. We will continue to hold such information confidentially.

## **14. Privacy**

You must make all necessary notifications and obtain any necessary consents for us to process personal information you provide to us. We collect and use that personal information for the purposes of providing the services described in the engagement letter to you and we will

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comply with the *Privacy Act 1988* (Cth) when processing that personal information. You confirm that with any personal information that you provide to us, you are entitled to provide the information to us.

### **15. Ownership of materials**

We own the copyright and all other intellectual property rights in everything we create in connection with this engagement. Unless we agree otherwise, anything we create in connection with this agreement may be used by you only for the purpose for which you have engaged us.

### **16. Limitation of liability**

Our liability is limited by a scheme approved under Professional Standards Legislation. You agree not to bring any claim against any of our Principals/Directors or Employees in their personal capacity.

To the maximum extent permitted by law, we are not liable to you for:

- indirect, special, or consequential losses or damages of any kind; or
- liability arising due to the acts or omissions of any other person or circumstances outside our reasonable control, or your breach of these terms.

### **17. Limitation to other third parties**

Our advice and information is for your sole use, and we accept no responsibility to any third party, unless we have expressly agreed in the engagement letter that a specified third party may rely on our work.

### **18. Termination of services**

Each of us may terminate this agreement by giving not less than 21 days' notice in writing to the other party except where a conflict of interest has arisen, you fail to cooperate with us or we have reason to believe that you have provided us or any other person with misleading or factually inaccurate information, in which case we may terminate this agreement immediately. Termination will not affect any accrued rights.

All jobs in progress at the termination date will be billed based on the work performed to that date, whether or not the job has been completed.

### **19. Communication**

You must advise of any changes to your contact details. We may send any communications to the last contact details you have provided. Unless you instruct us otherwise, we may, where appropriate, communicate with you and with third parties via email or by other electronic means. The recipient is responsible for virus checking emails and any attachments. There is a risk of non-receipt, delayed receipt, inadvertent misdirection, or interception by third parties in any form of communication, whether electronic, postal, or otherwise.

Despite encryption and best efforts, electronic transmissions are inherently insecure, can be corrupted or intercepted, may not be delivered and may contain viruses. Any losses suffered in connection with electronic communication is accidental and we are not responsible for any such matters beyond our control.

### **20. BGL Client Portal**

Your access to the BGL Client Portal is subject to the following terms of use:

- It is your responsibility to ensure that your unique log in and password is kept safe and not disclosed to others.
- Each user must have a unique email address as each login may only be used by one individual.
- Whilst you will have access to all information stored in your BGL Client Portal account, you are responsible for maintaining copies of information in your BGL Client Portal account as we make no guarantees that there can be no data loss. Unless otherwise specifically stated, our engagements specifically exclude responsibility of storage of your data.
- We expressly exclude any liability for loss of data no matter how caused.

### **21. Applicable law**

Our engagement is governed by the law of the State of Victoria. The courts sitting in that State will have non-exclusive jurisdiction in relation to any dispute between us.

### **22. Interpretation**

If any provision of the engagement letter or these terms is void, that provision will be severed, and the remainder will continue to apply. If there is any conflict between the engagement letter and these terms, these terms prevail.

### **23. Disputes and complaints**

If you have any concerns about our costs or services, please speak to the person responsible for this engagement, who is identified in our engagement letter. To resolve your concerns, we have policies and procedures in place to deal appropriately with complaints and will use best endeavours to resolve a complaint or dispute to the mutual satisfaction of the parties involved. We may require you to detail your complaint in writing to allow us to fully investigate any concerns that you raise.

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## 24. Our service providers

We may utilise outsourced service providers and cloud computing service providers, including:

- Class Super (<https://www.class.com.au/>) of Level 20, 580 George Street, Sydney NSW 2000, to record and store SMSF transactions and prepare various reports and statements referred to in our SMSF engagement letter; and
- Business Fitness (<https://www.businessfitness.com.au/>) of Suite 12/3990 Pacific Highway, Loganholme QLD 4129, to provide online document management (including storage), client portal services and digital signing facilities; and
- Xero Accounting Software ([www.xero.com](http://www.xero.com)) of 1/6 Elizabeth Street, Hawthorn VIC 3122, to record and store financial records and transactions and produce various financial reports and tax documentation as required; and
- MYOB ([www.myob.com/au](http://www.myob.com/au)) of Level 3, 168 Cremorne Street, Cremorne VIC 3121 to record and store financial records and transactions and produce various financial reports and tax documentation as required; and
- Simply SMSF Audits (<https://www.simplysmsfaudits.com/>) of 10 Foxhound Grove, Cranbourne East VIC 3977 to provide audit and assurance services to your SMSF. You will receive a separate engagement letter and terms and conditions from Simply SMSF Audits in relation to their specific services; and
- Vostro Private Wealth (<http://vostroprivate.com.au/>) of 49 Cardigan Place, Albert Park VIC 3206 for matters where you request advice that requires the input of an AFSL holder. If you are not already a client of Vostro Private Wealth, written authorisation will be sought from you prior to engaging their services or sharing any information with them; and
- and other third parties from time to time and as separately notified to you.

To perform the services, we may provide these third parties with access to your data to the extent this is required to perform the services.

Your data will be stored in servers physically located in Australia (unless otherwise specified) and in accordance with the security practices of the third-party service provider and our Privacy Policy.

## 26. Accounting programs and applications

We are a “Professional Partner” with the accounting software company Xero Limited. You may have a subscription with Xero that is paid for by us in the first instance; and then billed by us to you. If this is the case, due to the specific terms of our professional partnership with Xero, we receive a discounted price for purchasing subscriptions of up to 20% of the standard fee.

As a silver level partner, we are also eligible to receive practice management software provided by Xero at no cost to us.

## 25. Non-arm’s length income and expenses (SMSF’s)

Under amendments to section 295-550 (ITAA 1997) special rules may apply to transactions between parties that do not deal with each other *at arm’s length*. Where any transaction undertaken by you (income or expenditure) is not a true reflection of the commercial market value of the income earned or expenditure incurred, significant penalties may be applied by the ATO. Penalties for breaches of these rules may be as much as 45% tax on all of the income of the SMSF – including statutory income.

We will accept the value of expenditure incurred by your SMSF as being on an arm’s length basis unless you advise us otherwise. If you have received discounted or free services in your SMSF during the period, you must advise us of this. These may include services such as financial advice, portfolio management, accounting, audit etc. where these services have been provided for less than fair market value.

Where the SMSF earns income from a related party (e.g., rental income from a related party tenant – business real property), we may ask you to provide documentary evidence and specific confirmation that the rate of income earned is commensurate with the market rate.

Where the SMSF pays expenses to a related party (e.g. interest on a loan), we may ask you to provide documentary evidence that the expense (e.g. interest rate) is commensurate with the market rate.