Taxation Services – Terms of Engagement

Purpose of this document

Thank you for your instructions to attend to the accounting and taxation requirements for your organisation(s) as per the engagement letter previously issued to you. This letter sets out further details in respect of the terms of the engagement and the scope of the work to be performed by us, as noted in your engagement letter.

Only those taxation services that have both been listed below and in the engagement letter issued to you are relevant to yourself (and/or your organisation(s)). However, in the event that you wish us to provide you with additional taxation services then you may wish to review the other items listed below.

Please note that in the foregoing paragraphs any reference to "you", "organisation" or similar is a reference to those parties listed in your engagement letter.

Please read this document carefully and if you have any queries or wish to discuss any aspect do not hesitate to contact us.

New Tax Agents Regime

With effect from 1 March 2010, a new regime for the regulation of tax agents has taken effect under the *Tax Agent Services Act 2009* and accompanying legislation (**TASA**). The new regime has implications for registered tax agents and also for their clients.

An important feature of TASA is the provision of a "safe harbour" protection from penalties in certain circumstances for taxpayers who engage registered tax agents.

To obtain the benefits of "safe harbour" protection, the legislation requires the taxpayer to provide the registered tax agent with "all relevant taxation information" to enable accurate statements to be provided to the Australian Taxation Office. This requirement is important both to us as the tax agent and the organisations listed on your engagement letter in terms of understanding the scope of our engagement as set out below. An explanation of the "safe harbour" provisions is located at the end of this document in Appendix 1.

Purpose and scope of our engagement – addendum to our engagement letter

Our engagement may comprise any or all of the following services mentioned in the engagement letter:

- Preparation and lodgement of BAS returns for your organisation(s);
- Preparation of the annual financial statements for your organisation(s);
- Preparation and lodgement of the annual income tax returns for your organisation(s);
- Preparation and lodgement of annual FBT returns for your organisation(s), and
- Preparation and lodgement of superannuation returns for your superannuation fund.

This letter relates only to the abovementioned services and details the basis and terms of the engagement in respect of those particular services. Work that is performed or disbursements that are incurred which are outside the scope of our engagement will be the subject of additional charge. It should be noted at the outset that as a general proposition we rely upon our clients to provide us with accurate and timely information to enable us to properly perform our engagement obligations. Consequently, any rectifying work performed by us on the basis of incorrect or late information will be work which is outside the scope of our engagement and will be charged as additional services.

BAS returns

As the BAS returns are prepared quarterly and lodged during the financial year, it is not possible for this firm to review the correctness of the underlying financial information as part of the preparation of the quarterly BAS return.

This is because we are engaged to prepare the annual accounts and these are prepared after the conclusion of the financial year.

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

- The financial information provided to us 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, please contact us.

- You have the necessary supporting documentation to satisfy the Australian Taxation Office for GST purposes. Again, if you are unsure of the ATO requirements or require advice regarding these documents, please contact us.

- 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 our office for assistance.

However, it is possible that, when the financial accounts are prepared, some discrepancies will exist between the information disclosed in the quarterly BAS returns and in the annual financial statements.

Should any discrepancies arise, we will discuss the need to correct either the BAS returns and/or financial accounts.

Financial accounts

This firm has been engaged to prepare the annual financial accounts of the business 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 business entities. It also includes telephone support should you require any assistance as to how to record specific transactions in the general ledger.

This service does not include the preparation of one-off accounts for presentation to your financiers for additional finance and the like. The scope of our engagement in respect of financial statements preparation should be read in conjunction with the other comments in your engagement letter.

<u>Accounting & record keeping</u>

In undertaking this engagement, it is understood that, unless we have been engaged to attend to any bookkeeping or related services applicable to the organisation, you will generally ensure that:

The bookkeeping for all business entities is maintained on a regular basis.

Reconciliations for the bank accounts, debtors and creditors are performed at the end of each month for each of the business entities.

Additionally, it is expected that

• A stocktake will be performed during the last weekend in June for each entity that deals in trading stock.

• It is expected that the trial balance of each of the business entities will be completed and will be forwarded to us along with any relevant documentation and data files no later than 31 March each year, unless advised earlier by our office.

• In respect of the personal tax returns for you and your family, it is expected that all relevant information will be collated and forwarded to our office by 31 March each year, unless advised earlier by our office.

Income tax returns

This firm has been engaged to prepare and lodge income tax returns for the business entities in your group.

Unless we are also engaged to assist in financial statements preparation (as noted above), this firm will not be responsible for reviewing or verifying any financial records or statements provided to it either via manual cashbooks or prepared on accounting software such as MYOB or Quickbooks.

Additionally, please ensure that you have all source documentation available to allow this firm to analyse the income tax implications of any transaction, if we request to see it. Whilst we 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. We 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.

We will, where requested, 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 specifically required by the legislation. However, we will not be checking that the requirements of the substantiation provisions have been satisfied.

This specifically means that we will not be reviewing your log book or any calculations or substantiating the accuracy of information you provide us, for example a rental property schedule either prepared by you on spreadsheet or by a property manager. If you require assistance in completing a log book or preparing any calculations or you would like us to review such work, please discuss this with us. This will entail work which is outside the scope of our engagement and will be charged as additional services.

Also, the fee for this service does not cover any inquiries made to us or investigations involving us conducted by the Australian Taxation Office. Substantial penalties apply for an incorrectly prepared income tax return. If you have any queries in respect to this, please contact our office for assistance.

Fringe benefits tax returns

This firm has also been engaged to prepare and lodge the FBT returns for your business entities.

Please note, with the introduction of GST, it may not always be possible to prepare an FBT return from the information contained in the general ledger. It may be necessary to revert to the source documentation to allow our firm to analyse the FBT implications of any transaction.

Our fee for this service includes:

- advice on how to collate the information necessary to prepare the annual FBT return;

- telephone advice on basic FBT issues;

- an annual review of the methods available to reduce your FBT expenses, and

- calculation of Reportable Fringe Benefits Tax Amounts that may be required to be included on the annual payment summaries for your employees (including family members employed in your business).

Superannuation

This firm has also been engaged to attend to the income tax compliance work for your superannuation fund. This assignment will involve:

- Preparation of the superannuation fund's accounts for the purposes of the *Superannuation Industry Supervision Act (the SIS Act).*

- Preparation and lodgement of the SMSF annual return. It is important to note 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 following the end of each financial year to allow these tasks to be completed or earlier if advised by this office.

- The possible assistance of a contractor based in India. All client information is securely stored on our server in our Melbourne office at all times.

- With respect to the annual audit of the SMSF referred to above, the audit will be undertaken by this office. A specific engagement letter focusing upon the SMSF's audit requirements will also be issued as part of the audit engagement.

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

Additionally, our engagement does not extend to updating your SMSF's trust deed, nor a review of the deed outside what is required as part of our audit engagement. If during the course of our audit engagement we believe that the trust deed requires updating or is not in compliance with applicable legislation, we will discuss this with you accordingly and, if necessary, recommend any services to rectify this.

Our service in respect of your SMSF does not cover any inquiries made by or investigations conducted by the Australian Taxation Office.

Additional Services

The scope of our engagement is the preparation and lodgment of the accounting and taxation matters detailed above. Any agreed fee applies only to services and advice provided within the scope of our engagement. This fee includes the checking and forwarding of original assessments and original payment notices that are received from the Australian Taxation Office.

However, any additional services or advice that you request are outside the scope of our engagement and not included in this agreed fee. These services will be charged on the basis of the time and degree of skill and acumen required to complete the task undertaken by us, including any direct out of pocket expenses. Please note in particular that any correspondence from the Australian Taxation Office that does not relate to initial assessments nor original payment notices, will be charged as additional services.

Unless otherwise stated in writing, any estimates which we 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 us.

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 taken into account in the estimate, we will endeavour to advise you and provide an amended estimate as soon as it is practicable to do so.

Other factors for consideration

- **No statutory financial audits are conducted**

You and your employees are responsible for the maintenance of the accounting systems and internal controls for all the business entities. That includes the keeping and maintenance of all required books of account.

Unless specifically engaged, our firm is not conducting a statutory audit of the financial records of any of your business entities and we will not express an auditor's opinion as to the truth and fairness of the financial statements.

- **Documentation**

Before we lodge any income tax returns on your behalf, we will forward the documents to you for approval. We will endeavour to ensure that the returns are lodged by the due dates and will endeavour to advise you to send us your documentation in a timely manner to allow us to meet lodgement deadlines. If you are late in providing information, we will do our best to meet time limits, but we will not be responsible for any late lodgement penalties or interest charges you may incur.

Professional fees - GST

Our professional fees are inclusive of Goods and Services Tax ("GST"). If the services we are providing are provided to your business then you may be able to claim a GST input tax credit for the GST you pay us. However, this will not be the case if the services we provide are used by you in creating an input taxed supply. In this situation you cannot claim the GST associated with our professional fees as an input tax credit.

If your matter involves a mixture of taxable, GST free and input taxed supplies we will not apportion our professional fees between these categories of supply unless you have expressly requested us 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 us 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 us then please contact us.

Disbursements - GST

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

Certain government charges and fees included in some matters undertaken in the scope of our 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 our services. Accordingly for certain disbursements in this category, namely:

- ASIC fees;
- New company and trust deed orders; and
- Other specific disbursements notified from time to time,

we 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.

Where GST is payable on some or all of a supply acquired by us as your agent, we will forward you the Tax Invoice and you will be entitled to claim the input tax credits directly if you have an ABN and are entitled to claim input tax credits.

Confirmation of engagement

Obviously, there are many issues to consider in this engagement and we ask that you consider all aspects outlined in this document and those in the engagement letter sent to you to ensure that you are satisfied with the scope of our engagement. Please contact us if you have any queries.

Once you are satisfied with the terms of our engagement, would you please have the relevant persons sign and date both copies of the engagement letter previously forwarded to you 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. We thank you for the opportunity to provide accounting and taxation services to you and your business and we look forward to developing a close accounting relationship with you for many years to come.

Yours sincerely,

MORRIS COHEN, GLEN & CO

Chartered Accountants

APPENDIX 1:

Explanation of the new 'safe harbour' rule

Dear Client,

You may have heard about a new initiative whereby taxpayers utilising the services of a registered tax agent will be given a 'safe harbour' (or exemption) from penalties even if:

- Their tax return is later discovered to have contained an error; or
- Their tax return is lodged late.

When did the new safe harbour provisions commence?

The 'safe harbour' can only apply for returns lodged on or after 1 March 2010.

How does the new safe harbour work?

The key to benefitting from the 'safe harbour' should the need arise, is for you to ensure that you provide us with all of the relevant tax information in your possession. This includes any records, or documents we request from you plus any other information you think may be relevant to the preparation of your tax return. The information provided must be compete and accurate.

It is equally important that you provide us with this information by the time it is requested so as to allow the return by its due date.

The safe harbour from late lodgment penalties can also apply where a BAS, IAS, or FBT return is lodged late.

What does the new safe harbour apply to?

Whilst the safe harbour can apply to exempt the penalty for an error made in a tax return, it is important to note that the tax and interest will be still be payable.

What if the safe harbour does not apply?

Even if you are not eligible for the safe harbour, it is still possible to request the ATO to remit or reduce the penalty and for that decision to be reviewed by the Administrative Appeals Tribunal if you are unsuccessful.