

# Appointment Terms

## 1. OUR ROLE

We act as your legal advisers in relation to the specific matter we are engaged on.

We:

- act on your instructions; and
- determine the legal strategy, process and steps required to progress the matter.

We are not responsible for:

- the commercial viability of any transaction or recovery;
- the solvency, conduct or performance of any counterparty; or
- any outcome of the matter except to the extent caused by our negligence, breach of duty or breach of professional obligation.

We may refuse to act or continue to act at any time where:

- there is a conflict of interest;
- you fail to comply with these terms or our Costs Agreement; or
- continuing would compromise our ability to properly conduct the matter.

## 2. CONTROL OF THE MATTER

You acknowledge and agree:

- we control how the matter is run, including timing, sequencing and enforcement steps;
- we may take any step we consider appropriate to progress the matter, consistent with your instructions;
- we are not required to seek further approval for routine or necessary steps;
- you must not delay, restrict or interfere with the progression of the matter.

You must not:

- settle, compromise, restructure or otherwise deal with any matter in a way that avoids or prejudices payment of our fees; or
- enter into any arrangement which materially affects the conduct or recovery of the matter without our prior involvement.

Where legally permissible, you must ensure that all settlement, recovery or transaction proceeds are directed through our trust account unless we agree otherwise in writing.

If you do, we may suspend or terminate our engagement immediately.

### 3. INSTRUCTIONS

We are entitled to rely on instructions from:

- any person you hold out as authorised;
- any director, officer or employee of a corporate client;
- any intermediary or adviser you nominate.

We are not required to verify authority unless we are on notice that the person may not be authorised.

Where we act for more than one client:

- each client is jointly and severally liable; and
- we may act on the instructions of any one client without reference to the others.

### 4. CLIENT OBLIGATIONS

You must:

- provide complete, accurate and timely instructions;
- respond promptly to requests;
- provide all documents and information required;
- ensure funding is available at all times in accordance with our Costs Agreement;
- not act inconsistently with our advice where doing so may prejudice enforcement, recovery, risk management or the proper conduct of the matter.

We are entitled to rely entirely on the information you provide.

We are not responsible for any loss arising from:

- incomplete, inaccurate or misleading instructions; or
- delay in receiving instructions or information.

### 5. ACTIVE PROGRESSION OF MATTERS

You acknowledge that matters must be actively progressed.

If instructions, information or funding are not provided promptly, we may:

- take steps we consider appropriate to progress the matter;
- delay or decline to take further steps; or
- suspend or cease acting.

We are not responsible for any delay, loss or prejudice caused by your failure to provide instructions, information or funding.

## 6. FUNDING AND SUSPENSION

You must comply with all funding requirements set out in our Costs Agreement. This includes payment of disbursements and third-party charges when required.

We may suspend work immediately, without notice, if:

- any invoice is unpaid;
- trust funds are insufficient;
- instructions are not provided; or
- you breach these terms or our Costs Agreement.

We are not responsible for any consequences of suspension, including:

- delay;
- loss of rights or priority; or
- enforcement prejudice.

## 7. TERMINATION

### 7.1. Your right to terminate

You may terminate our engagement at any time by written notice.

You must pay all fees, disbursements and expenses incurred up to the date of termination in accordance with our Costs Agreement.

### 7.2. Our right to terminate

We may cease acting immediately, subject to our professional obligations, if:

- you fail to pay invoices or provide funding;
- you fail to provide instructions or cooperation;
- you act inconsistently with our advice;
- you engage in conduct which prejudices recovery or the proper conduct of the matter;
- continuing would expose us to legal, regulatory or reputational risk; or
- we consider the matter is no longer capable of being properly progressed.

On termination:

- all outstanding amounts become immediately due and payable in accordance with our Costs Agreement;
- we may cease all work without further obligation;
- our lien and rights over documents and funds continue.

## 8. LIEN

We have a lien over:

- all documents;
- all funds; and
- all property in our possession

until all amounts owing to us are paid in full.

This lien applies to amounts owing on any matter, not only the matter to which the documents, funds or property relate.

Our lien:

- applies across all matters;
- survives termination; and
- operates to the fullest extent permitted by law.

## 9. RELIANCE ON OUR ADVICE

Our advice:

- is based on the law at the time it is given;
- is limited to the specific matter; and
- relies on the information provided by you.

We do not:

- guarantee outcomes;
- assume responsibility for commercial decisions; or
- monitor changes in law after advice is given.

## 10. CONFIDENTIALITY

We will maintain confidentiality in accordance with our professional obligations.

You acknowledge:

- we act for other clients, including in similar sectors;
- we may use general knowledge gained in the course of acting for you, provided confidential information is not disclosed.

We may disclose information to barristers, experts, agents, service providers, regulators, courts, counterparties and other persons where reasonably required to carry out your instructions or comply with law.

## 11. NON-SOLICITATION OF STAFF

You must not, without our prior written consent, directly or indirectly:

- solicit, employ or engage; or
- attempt to solicit, employ or engage

any of our employees, contractors or consultants with whom you had dealings, or who were involved in your matter, during our engagement and for 12 months after it ends.

You acknowledge that:

- this restraint is reasonable and necessary to protect our legitimate business interests; and
- damages may not be an adequate remedy, and we may seek injunctive relief.

## 12. SECURITY INTEREST

As security for payment of all amounts owing to us, you grant us a security interest (for the purposes of the Personal Property Securities Act 2009 (Cth)) in:

- all present and future rights to payment, debts, loans, guarantees and indemnities held by you which are the subject of, or arise in connection with, any matter on which we act;
- all present and future security interests and security property held by you in connection with those rights, including any mortgage, charge, lien, pledge or other security;
- all rights under any loan agreement, security document or related instrument; and
- all proceeds of any of the above, including any settlement sums, repayments, enforcement recoveries, refinance proceeds or sale proceeds.

You agree that we may:

- register, perfect and maintain that security interest if any amount owing to us is unpaid; and
- take any step reasonably required to enforce that security interest.

You must do anything reasonably required by us to:

- perfect, maintain or enforce that security interest; and
- ensure it remains effective and enforceable.

Nothing in this clause limits:

- our lien;
- our rights under our Costs Agreement; or
- our right to deduct amounts from trust money.

You must not deal with, transfer, assign or otherwise dispose of any such rights, security or proceeds in a way that prejudices our security interest.

### 13. ELECTRONIC COMMUNICATIONS

We may communicate electronically with you and third parties.

You accept the risks associated with electronic communication, including:

- delay;
- interception; and
- data corruption.

To the extent permitted by law, we are not liable for those risks.

### 14. NON-DISPARAGEMENT

You must not, directly or indirectly, make or publish any statement about us, our personnel or our services that is:

- false;
- misleading; or
- made recklessly without regard to its truth; and
- likely to damage our reputation.

This clause does not prevent you from:

- making a complaint to a regulator or professional body;
- giving evidence in legal proceedings; or
- making statements required by law.

If you breach this clause, we may seek injunctive relief or any other remedy available to us.

### 15. USE OF OUR WORK AND DOCUMENTS

All advice, documents and materials we provide are prepared solely for your benefit in connection with the relevant matter.

You must not, without our prior written consent:

- use our work for any other matter or transaction; or
- provide our work to any third party, including other lawyers, for the purpose of obtaining advice on or replicating our work.

You may provide our documents to:

- borrowers, guarantors and counterparties;
- your financiers, investors or advisers; and
- any person reasonably required to complete the transaction or matter,

provided that this is only for the purpose of progressing that matter.

We are not responsible for any use of our work:

- outside the scope of the relevant matter; or
- after it has been amended or relied upon by any third party.

We do not owe any duty to any third party who receives or relies on our work.

You must not use our documents, precedents or structures as templates for other transactions without our prior written consent.

## 16. DOCUMENT RETENTION

We may:

- store documents electronically;
- engage third-party storage providers; and
- destroy files 7 years after completion or earlier where permitted by law and professional obligations.

Retrieval of stored documents may incur a charge.

## 17. CONSISTENCY WITH COSTS AGREEMENT

These terms must be read together with our Costs Agreement and any Matter Confirmation.

To the extent of any inconsistency:

- the Costs Agreement prevails in relation to fees, billing, trust, disbursements, recovery, security, funding and payment obligations; and
- these terms prevail in relation to control, conduct, instructions, confidentiality, staff non-solicitation, lien, document retention and electronic communications including any security interest granted under these terms.

No Matter Confirmation overrides these terms or the Costs Agreement unless it expressly states that it does so.

## 18. GOVERNING LAW

These terms are governed by the law of New South Wales.