

TERMS OF ENGAGEMENT AND DISCLOSURE STATEMENT

A. Terms of Engagement

1. The following documents will constitute the entire agreement between you and Mason Gould in relation to an engagement to provide the Services:
 - (a) the Engagement Offer;
 - (b) these Terms of Engagement and Disclosure Statement; and
 - (c) any amendments or supplements to any of the foregoing agreed from time to time
 (collectively, the **Terms**).
2. For the purposes of the LPA, the agreement about the payment of our Legal Costs for each matter we provide you with Services (**Costs Agreement**) is governed by the Terms. You have the right to negotiate a Costs Agreement with us. You may accept these Terms and the Cost Agreement by writing, email confirmation or otherwise confirming with us that you wish us to provide the Services.
3. Where we have issued these Terms of Engagement and Disclosure Statement to you in respect of one engagement they will apply to future engagements (i.e. we do not need to provide these Terms of Engagement and Disclosure Statement with future Engagement Offers).

B. Meanings

In the Terms:

Act means the *Corporations Act 2001* (Cth).

Engagement Offer means the offer in our “*Legal Services – Engagement Offer*”, letter or email we provide to you, which outlines the Services and our estimate of Legal Costs (if applicable) for that matter.

GST means GST as defined in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) as amended.

Legal Costs means our fees and disbursements for the Services.

LPA means the *Legal Practitioners Act 1981* (SA).

Mason Gould, we, our and us mean Mason Gould Pty Ltd with Australian Business Number 49 612 994 680.

Regulated Client means a client who has the benefit of the consumer protection provisions of the LPA including section 10 of Schedule 3 (Cost disclosure and adjudications). A client will not be a Regulated Client where such disclosure is not required as set out in section 13(1) of Schedule 3 of the LPA (Cost disclosure and adjudications) – see Section X below as to whether you are a Regulated Client.

Scale of Costs means, from time to time, the rates set by each court for the purposes of assessing cost recovery.

Services means the legal services performed by us as outlined in the Engagement Offer or as otherwise agreed with you over the course of us providing you with legal services in respect of any matter.

you and your means the client who engages Mason Gould (and if more than one, refers to each of them jointly and severally) to provide the Services.

C. Relationship and Scope of Services

4. We will use reasonable care and skill in providing the Services. The responsible senior manager for the Services will be as set out in the applicable Engagement Offer or otherwise the senior manager who issues the applicable Engagement Offer.
 5. The Services are limited to the provision of legal services. The Services do not include legal tax advice unless expressly agreed with you in writing. Where we have not expressly agreed to provide legal tax advice, we are not required to provide such legal tax advice and you should obtain such advice from your other advisers. The Services do not extend to business advice or investment advice (including whether or not a proposed deal or transaction is a good investment) and we are not qualified or licensed to provide such advice. The Services do not extend to checking or verifying calculations or formulae you or your advisers provide to us for inclusion in contracts or documents.
 6. Unless we agree in writing, our advice does not extend to, and may not be relied upon by third parties, including your directors and employees in their private capacities. Unless we agree in writing, our Services are limited to advice in respect of Australian law. Where we agree to draft or review contracts or documents governed by the laws of a foreign jurisdiction the Services are limited to commercial assistance in respect of the same and our Services do not extend to advice as to the enforceability under or compliance of the contracts or documents with the foreign jurisdiction's applicable law. We recommend that you obtain advice on such matters from lawyers in the applicable foreign jurisdiction.
 7. You will provide us with accurate instructions and information in a timely way to enable us to provide the Services.
 8. We will promptly notify you of any matter which gives rise to a conflict of interest. If we discover a conflict of interest between you and another client, we reserve the right to cease to act. Subject to such conflict of interest, we are at liberty to act for any other party.
 9. The shareholders of Mason Gould may vary over time and may include shareholders who are accounting or other professional services firms (or associates of the same). If a professional service firm is a shareholder of Mason Gould and has referred you to Mason Gould they may receive a benefit (i.e. a dividend) from you engaging Mason Gould.
- ### D. Legal Costs
10. Except where we agree to calculate our Legal Costs on another basis (including as set out in our Engagement Offer), we charge for our Legal Costs at the following hourly rates (exclusive of GST) and as otherwise notified to you from time to time:

Position	Rate Per Hour (\$AUD)
Senior Manager, Consultant (Partner level equivalent)	395
Tax Senior Manager, Tax Consultant (Partner tax level equivalent)	450
Senior Lawyer (Senior Associate level equivalent)	345
Senior Solicitor	325
Solicitor	300
Corporate & Private Wealth Clerk	200

11. Our senior managers and staff record our time and charge in 6 minute increments for any activity. Our senior managers and staff have different charge out rates based on their level of experience.
12. We do not charge separately for our support staff doing routine work in usual business hours.
13. The rates we charge for the Services are higher than the Scale of Costs. You may be able to find another law firm in South Australia willing to perform the Services at Scale of Costs rates.
14. You agree that we can charge you a fee for the preparation of any audit representation letter which is requested from us by your auditors. Our fee for such work will be based on the time searching our records for the relevant information and in preparing the audit representation letter at the rates set out in paragraph 10.
15. If you are a Regulated Client and it is reasonably practicable to do so, we will give you an estimate of the Legal Costs you will incur on each matter. If it is not reasonably practicable to make an estimate, we will give you a range of estimates of the total Legal Costs and an explanation of the major variables that will affect the calculation of those Legal Costs. Estimates are based on the agreed scope of work and should not be regarded as a fixed quote.
16. If you are a Regulated Client you have a right to be notified (and we will notify you) of any substantial change to anything disclosed in a Costs Agreement as soon as reasonably practicable after we become aware of that change.

E. Disbursements

17. We may recover from you internal disbursements incurred in providing the Services as follows (plus GST):

Type	Rate (\$AUD)
Binding	5.00 per document
Folders and dividers	At cost
Photocopying	0.28 per page, no volume discounts If a large volume is required, we may use external contractors and pass the cost on to you.

18. We may also recover from you external disbursements we incur on your behalf. These include, but are not limited to, government search and lodgement fees, stamp duty, courier charges and postage.
19. If we change the way we calculate disbursements, or if service charges change during the course of the matter, we will notify you accordingly.
20. You agree to pay us for disbursements incurred:

- (a) with your authority; and
- (b) without your authority (i) if the costs of the disbursements are minor given the nature of the matter (e.g. a company or property search report), or (ii) it was not reasonably practicable to obtain your consent and the disbursement was necessary for us to properly provide you with the Services.

F. Billing

21. You will receive an itemised bill of costs from us for the Services (**Invoice**). The Invoice will describe the nature of the work undertaken, the person who has completed the work, the time/cost associated with the work and any GST payable. If we agree a fixed fee for Services, we will not be required to provide you with an itemised bill of costs. The Invoice will also include disbursements incurred by us in respect of the Services.
22. We will send you an Invoice either monthly or at such other intervals as agreed with you while the Services are being provided.
23. We become entitled to payment of our Legal Costs when we deliver an Invoice to you personally, by post or by email to your last known address.

G. Payment and interest on unpaid costs

24. Our Invoices are payable by you strictly 14 days after the date you receive the Invoice. Invoices must be paid in immediately available funds and without any deduction, withholding or set-off.
25. If our Invoices are not paid within 30 days of receipt by you of the same, we may charge you interest on the unpaid amount at a rate equal to 2% above the Reserve Bank Cash Rate Target rate. We may also suspend performing the Services without liability. The above is not our sole remedy in respect of any failure by you to pay our Invoice.

H. Trust Monies

26. This paragraph only applies if we operate a trust account. Any money provided to us on trust on account of our Legal Costs will be held on the following terms:
 - (a) we will deposit any money we hold on your behalf with a regulated financial institution and manage it in accordance with the laws and professional regulations applicable to the holding of trust money;
 - (b) you agree that we are not responsible for any loss of funds so deposited and managed; and
 - (c) any part of the unused trust money after our final Invoice has been paid will be returned to you, less any taxes required by law to be withheld. If we are unable to contact you, or cheques issued by us are not presented by you within a reasonable time, we will treat the balance as unclaimed money in accordance with relevant law.
27. If we receive trust money to which you are entitled, you direct us to dispose of it:
 - (a) to those persons or purposes for which the same has been paid to us; and
 - (b) towards satisfaction for any outstanding Invoices.

I. Engagement of Barristers and Consultants

28. If you instruct us to engage a barrister in any matter, we will obtain a fee estimate from the barrister, either at the time of engagement, or as soon as practicable after they have been briefed to act for you.
29. It may be necessary for us to engage consultants (including other law firms with specific expertise and experts) for the purposes of providing the Services. Where practicable, we will seek your prior approval before appointing any consultant.
30. You agree to meet the costs of such barristers and consultants and we may ask you to either pay such barristers and consultants invoices directly or place funds in our trust account (if we operate a trust account) so we can pay them on your behalf.

J. Litigation Legal Costs and Process

31. Our Legal Costs for a litigation matter do not include the costs of recovery of any judgment or award or any appeal arising out of the litigation. Such services are subject to a separate agreement with you.
32. You should be aware that even if a court or tribunal orders the other party to pay your costs such amounts will be unlikely to cover all of your legal expenses, including our Legal Costs. Also, the rules of each court and tribunal vary in respect of the award of costs and courts and tribunals generally have broad discretion as to what cost orders they can make. In practice, some courts and tribunals are effectively low (nominal) or no cost jurisdictions meaning you are unlikely to recover any of your substantive legal costs including our Legal Costs. If it is a litigation matter we will advise you on the costs rules and regime of the applicable court or tribunal – namely the likely percentages and range of costs you may be able to recover (if successful) or have to pay (if you are unsuccessful). Again, to be clear, different courts and tribunals have rules and processes for assessing what amounts are recoverable/payable by a party to the litigation. As an example, a successful party usually recovers 60-65% of the actual legal fees incurred or paid in South Australian District, Supreme and Federal Court matters. Whereas, in our experience, there can be a gap of upwards of 60% between the costs paid out and actually recovered in relation to a South Australian Magistrates Court action (Note: in actions in the small claims division of the Magistrate's court only nominal costs can be recovered).
33. You will be responsible to pay our Legal Costs in full strictly in accordance with our payment terms, even if you have the benefit of a court or tribunal order for costs in your favour. Our competitive charge out rates are based on clients paying us strictly within our payment terms. We do not fund the cost of litigation.
34. If costs are awarded to your opponent in the litigation, their costs in or in relation to the proceedings will be additional to those payable under your Costs Agreement with us and to your barrister. If the court awards costs of an unspecified amount in your favour or against you, you or the other party may apply to the court for those costs to be assessed or taxed by reference to the applicable court scale.
35. We recommend that you obtain tax advice in the course of any litigation on the tax treatment of any amounts awarded to you or against you.
36. Litigation is a complex process in which the actions of the other parties and the court or tribunal can have a major impact on the

costs, conduct and duration of the litigation. Such matters are beyond our or your control. Also, it is never possible to predict with certainty the outcome of any litigation. For example, we cannot predict (i) how a judge will assess the evidence, (ii) whether a judge will accept your or the other party's legal submissions, or (iii) what opinion a judge will form as to the credibility of a witness. In respect of bringing or defending any litigation you should factor in the time, emotion and cost it will have on you, your staff and organisation (litigation is often a lengthy and expensive exercise).

37. These are some of the major variables which can affect the Legal Costs in any litigation:
 - (a) whether the law or factual circumstances are straightforward or complex;
 - (b) the length of any trial or other hearings;
 - (c) the number or witnesses that will be required;
 - (d) the court or tribunal in which you decide to bring the litigation (costs, procedures and filing fees vary between courts and tribunals);
 - (e) whether additional parties are joined to the litigation;
 - (f) whether the litigation proceeds to trial and to judgement;
 - (g) the willingness or not of the other party and you to settle the matter and, if you can, when the settlement of the litigation occurs during the course of the litigation;
 - (h) whether the other party defends any litigation you commence (and if they don't whether you are able to obtain summary judgement in that court or tribunal);
 - (i) the procedural steps and hearings the court or tribunal requires the parties to comply with (including discovery, witness statements, litigation plans etc.);
 - (j) whether there are any appeals by the parties before the trial in respect of interim orders or decisions as to procedure made by the court or tribunal;
 - (k) whether a party appeals any decision or judgement of a court or tribunal to a superior court (including applications to seek leave to appeal);
 - (l) whether you are required to obtain evidence or expert reports;
 - (m) the strategy and tactics that are adopted by the other party during the litigation; and
 - (n) whether a senior or junior barrister or more than one barrister is required in respect of the litigation.
38. If we negotiate the settlement of a litigious matter on your behalf, we will disclose to you, before the settlement is agreed, a reasonable estimate of:
 - (a) the amount of costs payable by you if the matter is settled (including any legal costs of another party that you are to pay); and
 - (b) any contributions towards those costs likely to be received from another party.
39. In any event, we will not commit you to a settlement unless we receive clear instructions from you.

K. Progress reports and litigation plans

40. You are entitled to request, at reasonable intervals, written progress reports on your matter. Our normal charge out rates will apply for this service.
41. If we prepare a litigation plan for you (a map of the steps, tasks, required resources and costs of the litigation) we may charge you for the same as part of our Legal Costs.
42. You may also reasonably request a report of the Legal Costs incurred on the matter or any Legal Costs incurred since the last Invoice in the matter (if any). If you request a report on Legal Costs, we will provide it to you without charge.

L. Queries or concerns about fees and charges

43. If you wish to discuss any queries or concerns about Legal Costs, you may contact the senior manager responsible for managing your matter. The following avenues are open to you if there is any dispute in relation to Legal Costs that we charge you:
 - (a) you may raise the matter with our Managing Director. At present, our Managing Director is Victor Daminato;
 - (b) you may seek adjudication in respect of the Legal Costs we have charged you in accordance with the LPA. Please note that an application for adjudication of costs under the LPA must be made within 6 months (unless you obtain leave of the court) after (i) an Invoice was given to you or a request for payment was made of you; or (ii) the Legal Costs were paid if neither an Invoice was given nor a request was made.
 - (c) you may seek to have the Costs Agreement you have with us, and under which the disputed Legal Costs have been charged, set aside under section 30 of the LPA.
 - (d) you may make a formal complaint to the Legal Profession Conduct Commissioner if you believe that there has been any overcharging.
44. If you have any complaints or grievances in relation to the Services, (other than in respect of Legal Costs) they will be addressed by a senior manager of Mason Gould. The senior manager will meet with you to discuss the complaint or grievance. You and we will each use best efforts to resolve the complaint or grievance in good faith.

M. Laws relating to costs and Governing Law

45. The law of South Australia (including the LPA and regulations under the same) applies to legal costs in relation to the Services.
46. If you are Regulated Client you may accept or reject any offer we make in writing for an interstate costs law to apply to your matter and the Services.
47. If you are a Regulated Client, before we commence providing the Services, you may notify us in writing that you require an interstate costs law to apply to the Services and, if we agree in writing, then that law will apply. Otherwise, we may terminate the engagement.
48. These Terms are governed by the laws of South Australia. You and we agree to submit to the non-exclusive jurisdiction of the courts of South Australia or the Federal Court of Australia (Adelaide Registry) and any courts which have jurisdiction to hear appeals from those courts.

N. Termination

49. Either you or we may terminate our engagement for the Services at any time by giving reasonable prior notice in writing. We can only terminate our engagement subject to any applicable laws or regulations. We will stop acting for you if we believe we have a good reason to do so (including if you fail to pay amounts as required by the Terms). We may make any such decision in our sole discretion.
50. If our engagement for the Services is terminated for any reason, you agree to pay in full our Invoices for our Legal Costs incurred up to and including the date of termination.
51. The engagement also terminates if you commit an act of bankruptcy, if you are a company, you become an *externally-administered body* or have a *controller appointed* over your assets (both as defined in the Act) or otherwise become insolvent, or you are a partnership and are unable to pay your debts as and when they fall due.

O. Confidentiality and Privacy

52. We will not, without your consent, communicate to a third party any of your confidential information that is not already in the public domain, except in accordance with paragraph 53.
53. We may disclose your confidential information:
 - (a) as necessary to perform the Services;
 - (b) to our professional advisers for the purposes of risk management (including our insurers in respect of actual or potential claims against us);
 - (c) as reasonably required by us for internal business management purposes, including but not limited to financial reporting, information technology support, document management and account management; or
 - (d) as required by law or court order.
54. We will take care to ensure that we comply with all privacy obligations imposed on us so that personal information about you or your business operations, employees and personnel are protected. You may request a copy of our privacy policy.

P. Legal Professional Privilege

55. When you seek and receive legal advice from us, legal professional privilege will attach to our communications related to that advice.
56. If we act for you in contemplated or actual legal proceedings, litigation privilege will attach to our communications related to those proceedings.
57. You should be aware however that legal professional privilege:
 - (a) is overridden by some legislation and may not apply in certain circumstances (e.g. disclosures to the Australian Taxation Office or the Australian Securities & Investments Commission); and
 - (b) may be lost by you communicating with third parties or with people in your own organisation who are not involved in the giving of instructions to, or in the seeking, obtaining or receiving advice from us.

Q. Copyright

58. We own the copyright in any documents prepared or provided by us in providing the Services. You may use those documents only for the purposes for which they were prepared and supplied.
59. Provided that we do not disclose your confidential information to any third party, we may use any documents created by us or any party we engage on your behalf for the purpose of training, research, precedents or to form the basis of advice to our clients, and we will not be required to make any attribution to you.

R. Post-completion obligations

60. Upon completion of each matter, we will return your original documents to you and retain our file on the matter for the period of time required by law, before destroying the file.
61. Unless we otherwise agree in writing, our professional obligations to you in respect of the Services end on completion of the Services, and we accept no obligation to provide ongoing advice related to the Services after that time or to store documents.

S. Obligation to retain documents pending litigation

62. For the purpose of this Section S, documents include (without limitation) letters, faxes, contracts (including draft contracts), emails, diary entries, financial records, spread sheets, reports and presentations, notebook entries, electronic entries and electronic documents.
63. You are required to retain all documents in your possession, custody or control which are or may be relevant to potential litigation. This requirement extends to documents that may not be helpful (or may be adverse) to your case.
64. Your obligation to retain documents is a continuing obligation. If there is any possibility that litigation will be commenced, you should retain all documents that may be relevant until we advise you that they can be safely disposed of. Where documents are, or are reasonably likely to be relevant to legal proceedings, it may be an offence to destroy such documents.
65. You are also required to keep records of and disclose instances where certain documents were, but are no longer, in your possession, custody or control.
66. There may be adverse effects, including court orders to prevent unfairness to a party, if you fail to retain such documents or such documents are not produced in legal proceedings to which the documents may be relevant. In some cases such court orders may extend to striking out your claim or defence.
67. We have an obligation to the court to be satisfied that you have complied with the requirements of the court rules in terms of preserving and disclosing documents. If you are required to produce documents for the purpose of litigation, our involvement in the process will be to review the documents you locate in your searches and to prepare the list of documents in keeping with the court rules.

T. Limitation of liability scheme

68. All aspects of the Services will be subject to the provisions and limitations applicable under the liability scheme governed by the

Law Society of South Australia (**Scheme**), being a scheme established under the *Professional Standards Act 2004* (SA).

69. Subject to the operation and provisions of the Scheme, the liability of Mason Gould (and any practitioner of our firm) in damages for a breach of a contractual duty of care, in negligence or under statute arising out of or in connection with the performance of the Services will be capped to the monetary limit of \$1.5 million. Any liability not covered by the Scheme, whether in contract, tort (including negligence) or otherwise, is limited to an amount equal to 10% of our Legal Costs.

U. Liability and Damages

70. If you suffer damage as the result partly of your own fault and partly our fault, the damages recoverable are to be reduced to such extent as the court thinks just and equitable having regard to your share in the responsibility for the damage.
71. We will not be liable for the advice given by counsel, correspondent lawyers, experts or other service providers we instruct on your behalf.

V. Force Majeure

72. We will not be liable for a failure to perform the Services if the failure is due to causes beyond our reasonable control.

W. Other Matters

73. All amounts in these terms are GST exclusive unless otherwise stated. Where the Service or disbursements provided are subject to GST, GST will be added and charged to you at the prevailing rate of GST.
74. We have a lien over your documents in our possession and any monies held in trust for the payment of any fees or disbursements.

X. Are you a Regulated Client?

You will not be a **Regulated Client**:

75. if the total legal costs in the matter, excluding disbursements, are not likely to exceed \$1,500 (exclusive of GST) or the prescribed amount (whichever is higher);
76. if:
 - (a) you have received 1 or more disclosures under clause 10 or 11(1) of Schedule 3 of the LPA from us in the previous 12 months; and
 - (b) you have agreed in writing to waive the right to disclosure; and
 - (c) a senior manager of Mason Gould decides on reasonable grounds that, having regard to the nature of the previous disclosures and the relevant circumstances, the further disclosure is not warranted;
77. if you are:
 - (a) a law practice or a legal practitioner; or
 - (b) a *public company*, a *subsidiary of a public company*, a *large proprietary company*, a *foreign company*, a

subsidiary of a foreign company or a registered Australian body (each within the meaning of the Act); or

- (c) a financial services licensee (within the meaning of that Act); or
 - (d) a liquidator, administrator or receiver (as respectively referred to in the Act); or
 - (e) a partnership that carries on the business of providing professional services if the partnership consists of more than 20 members or if the partnership would be a large proprietary company (within the meaning of that Act) if it were a company; or
 - (f) a proprietary company (within the meaning of that Act) formed for the purpose of carrying out a joint venture, if any shareholder of the company is a person to whom disclosure of costs is not required; or
 - (g) an unincorporated group of participants in a joint venture, if any member of the group is a person to whom disclosure of costs is not required and if any other members of the group who are not such persons have indicated that they waive their right to disclosure; or
 - (h) a Minister of the Crown in right of a jurisdiction or the Commonwealth acting in his or her capacity as such, or a government department or public authority of a jurisdiction or the Commonwealth;
78. if the legal costs or the basis on which they will be calculated have or has been agreed as a result of a tender process;
79. if you will not be required to pay the legal costs or they will not otherwise be recovered by us; or
80. in any other circumstances prescribed by the regulations to the LPA.

Mason Gould Pty Ltd: ACN 612 994 680 – 1 July 2018.