

CONCEPT ACCOUNTANTS SERVICE CONTRACT

PART A: GENERAL TERMS AND CONDITIONS

This document and (where applicable) any Engagement Letter, Confirmation Letter or Electronic Lodgement Declaration forms the Service Contract between Dutton Group Pty Limited atf ADR Dutton Family Trust trading as Concept Accountants (ABN 15 679 654 207) delivering the Services (referred to as 'Concept Accountants' 'We', 'Us' and 'Our') and our client (referred to as "you" or "your"). The terms defined in the Engagement or Confirmation Letter have the same meaning in these Service Contract Terms.

Where applicable, each business entity and adult family member listed in our Engagement or Confirmation Letter engages us on the terms set out in our Engagement or Confirmation Letter and is also bound by these terms. The business entities and adult family members listed are all jointly and severally liable to pay our accounts, regardless of which of the listed individuals or entities those accounts are addressed to and regardless of which of the listed individuals or entities received the benefit of the work performed.

This Service Contract is displayed on our website and may be updated or amended from time to time. Concept Accountants is not obligated to notify you of changes to the Service Contract and therefore requires the Client to familiarise themselves with this Service Contract on a regular basis.

1. Our Scope of Services

We will provide the Services described in the Electronic Lodgement Declaration, Engagement Letter or any subsequent Confirmation Letter. Engaging or continuing to engage Concept Accountants to provide the Services, will evidence your acceptance of the Services Contract. It is not incumbent on Concept Accountants to continually reissue Engagement Letters with a new scope of services nor advise you that such a new scope of services exists. If you instruct us to undertake any Services, these Terms will apply, regardless of whether or not you have signed the client acknowledgement in the Electronic Lodgement Declaration, Engagement Letter or Confirmation Letter.

Either of us may request changes to the Services to be provided or changes to any other aspect of the Terms but no such changes take effect unless agreed in writing. Both of us agree to work together to enable both parties to assess the impact of any requested changes on the cost, timing or any other aspect of the Services.

Unless otherwise agreed, we will continue to provide our Services 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.

Unless expressly stated otherwise in the Engagement Letter, the Services provided do not constitute tax advice nor financial advice nor legal advice.

2. Your Responsibilities

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. You will find further discussion on the “safe harbour” protections and other information related to this in **Part 2** of this Service Contract.

Our work will be based solely on the information provided, the circumstances made known to us and the assumptions set out in our correspondence. We rely on you bringing to our attention as soon as possible any changes in the information as originally presented as it may impact on our advice.

Changes in the law and in interpretations may take place before our advice is acted upon or may be retrospective in effect. Unless specifically stated in the engagement letter we accept no responsibility to inform you of changes in the law or interpretations affecting advice previously given by us.

3. 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. Our firm cannot be relied upon to disclose irregularities, including fraud, other illegal acts and errors that may occur with regard to such matters.

Unless expressly engage to perform a Self Management Superannuation Fund Audit, our firm is not being engaged to conduct 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.

4. Documentation

Before we lodge any 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 advise you at the beginning of the financial year when documentation should be provided to us. If you are late in providing information, we will do our best to meet the time limits, but we will not be responsible for any late lodgement penalties or interest charges you may incur. In instances of Goods and Services Tax, we may lodge your Business Activity Statements without approval.

5. Ownership of documents

The financial statements, tax returns and any other documents which we are specifically engaged to prepare, together with any original documents given to us by you, shall be your property. Any other documents brought into existence by us, including general working papers, the general ledger and draft documents will remain our property at all times.

If our services are terminated (by either party), each client separately agrees that we shall be entitled to retain all documents owned by that client (including all tax refund cheques of that client which come into our possession) until payment in full of all outstanding fees outstanding from all members of the Group on any account. This is notwithstanding any other action taken to secure a debt against you, such as registration of interest on property (such as a caveat with the relevant Land Services authority) or a report made to a credit agency.

Where copies of any documents released to you are required for our records, you will be charged for the cost of photocopying at our normal rates.

6. Additional services

The scope of our engagement is provided for in the Services described in the Electronic Lodgement Declaration, Engagement Letter or any subsequent Confirmation Letter. However, any additional services or advice that you request are outside the scope of these documents are 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 or ASIC that does not relate to initial assessments nor original payment notices, will be charged as additional services.

7. Fees and charges

Unless otherwise expressly agreed with you in writing, our professional fees are charged at hourly rates, using six minute increments. Those rates are contained in our Engagement or Confirmation Letter and may vary from time to time. Unless otherwise agreed, our engagement will be limited to the matters described in our Engagement Letter or Confirmation Letter. Work that is performed or disbursements that are incurred which are outside the scope of this letter will be the subject of additional charge.

Our invoices will be issued on a monthly basis or as set out in the Engagement or Confirmation Letter. Where not specifically set out in the Engagement or Confirmation Letter, all invoices will be due for payment within thirty (30) days from date of invoice. However, at our discretion, we may invoice you on an interim basis, prior to the completion of an assignment. Title to work will remain with Concept Accountants until full payment for the assignment is received. Concept Accountants does not provide credit and will not deliver work on assignments until full payment is settled.

Payment of invoices can be made by cheque, EFT, direct debit, or credit card. Payments by credit card may attract a service fee equivalent to the effective merchant fee levied by the card issuer.

If you choose to pay for the Services via a Third Party Payment Provider such as NAB Connect, you agree to be bound by any terms and conditions of that Third Party Payment Provider in addition to this agreement. The Third Party Payment Provider or your bank or other financial institution may require you to pay processing fees or other fees and charges. Any such fees and charges are your sole responsibility and are not included in the price of the Services, or other paid services unless otherwise specified. We accept no responsibility for your use of any Third Party Payment Provider.

Where Concept Accountants have been engaged to perform an Electronic Lodgement for taxation purposes, and you do not receive a refund which satisfactorily allows for full payment of our professional fees, you authorise us to direct debit our fee from my nominated bank account.

A debt collection cost will be payable by you where the account is not paid within the trading terms. Our terms are payment in advance or upon receipt of invoice. We may, at our discretion, also charge you a commercial rate of interest on accounts which are overdue by more than a month. We also may, at our discretion, take other such steps to secure a debt, including but not limited to registering an interest in property to which the debt relates.

8. Goods and Services Tax

Subject to any agency arrangements for GST discussed below under the heading “**GST – Disbursements**”, disbursements properly incurred from external suppliers (couriers, ASIC fees, other Government fees etc.) will be charged to you at cost plus GST.

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.

Each client in the Group is jointly and severally liable to pay our fees in respect of all work performed for all members of the Group.

GST – professional fees

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.

GST – Disbursements

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.

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

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

9. Termination

The Services Contract may be terminated by either party at any time by written notice.

10. Rights on Termination

Any termination of this Services Contract is without prejudice to the rights of one party against the other party in respect of any acts or omissions under this Services Contract prior to termination, or in respect of any sums that remain outstanding at the time of termination. For the avoidance of doubt, Concept Accountants reserves the right to invoice you and you are obliged to pay for any Services performed prior to the termination of this Services Contract.

11. Confidentiality

Both parties agree to take reasonable steps to maintain (within their respective organisations or otherwise) the confidentiality of any proprietary or confidential information of the other party. If you wish to provide third parties with copies of our reports, letters, information or advice, you must first obtain written permission from us to disclose the document(s) or information (please note our copyright as referred to in the Engagement Letter).

We also reserve the right to:

- set the terms upon which those copies are given or used by you or by a third party; or
- require the third party and any employees or contractors of the third party to enter into a standard form deed poll of confidentiality.

12. Information relating to your affairs

Our firm may from time to time use the services of third party contractors to perform some of the services we are engaged to perform for you. Each client in the Group hereby authorises us to disclose information relating to that client's affairs to all such third party contractors as we may choose to engage to perform such work.

Where we use the services of third party contractors, we are nevertheless responsible for the conduct and activities of those contractors and for the delivery of the services we are engaged to perform for you.

From time to time our firm and our third party contractors may engage external IT service providers (including in relation to 'cloud computing' services) in the performance of services under this engagement.

Each client in the Group hereby authorises us and our third party contractors to disclose information relating to those clients' affairs to all such external IT service providers as we or our third party contractors may choose to engage.

We may also need to disclose information relating to one client's affairs to other clients in the Group to assist in performing our work, to persons responsible for the governance of an entity to comply with accounting standards, or to a professional body of which we are a member in relation to a quality review program undertaken by that body. Each client in the Group hereby authorises us to do so when we consider it appropriate to further our performance of work for the Group, or when required by that professional body.

13. Limitation of liability and Indemnity

Our firm's liability may be limited by a scheme approved under Professional Standards Legislation. 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 this letter and will be charged as additional services.

You shall indemnify and hold harmless Concept Accountants (including its directors, employees, associates and contractors) (the **Indemnified Parties**) from and against any loss, expense, damage or liabilities (or actions that may be asserted by any third party) that may result from any third party claims arising out of or in relation to the provision of the Services or any use by you of any deliverable item under this engagement and will reimburse the Indemnified Party for all costs and expenses (including legal fees on a solicitor client basis) incurred by the Indemnified Party in connection with any such action or claim.

14. Exclusivity

Concept Accountants will not be prevented or restricted by anything in this Service Contract from providing services for other clients.

15. Dispute Resolution

If there is a dispute relating to the Services or an Outstanding Amount, the parties agree to resolve the dispute in good faith. If the dispute is not resolved by the parties within 30 days, the parties agree to enter into mediation or another form of dispute resolution before commencing legal proceedings.

Written notice of the dispute must be given to the other party for it to be submitted to mediation before a mediator chosen by the parties or, where the parties cannot agree on a mediator, then as selected by the Australian Disputes Centre (**ADC**). The mediation will be conducted in accordance with the ADC Guidelines to the extent they do not conflict with these Terms.

If the dispute is not resolved within 60 days after notice of the dispute is first made or such further period as agreed between the parties then the mediation will terminate.

16. Force Majeure

Neither of us will be liable to the other for any delay or failure to fulfil their obligations under this Services Contract to the extent that any such delay or failure arises from causes beyond their control, including but not limited to fire, floods, acts of God, acts of regulations of any governmental or supranational authority, epidemics or pandemics, war, riot, terrorist activities, strikes, lockouts and industrial disputes.

17. Entire Agreement

The Service Contract sets out the entire agreement and understanding between you and us relating to the Services. Without affecting our responsibilities for other services it is engaged to perform on terms agreed separately in writing, this Service Contract replaces and supersedes any previous agreements, proposals, correspondence, understandings or other arrangements, statements or representations whether written or oral as to any facts or matters relating to you or to Concept Accountants or the Services.

18. Engagement Letter to take Precedence

In the event of any inconsistency between the Engagement Letter and any other elements of these Terms of Business, the Engagement Letter will prevail. If there is any inconsistency between any Engagement Letter or Confirmation Letter, the Confirmation Letter will prevail.

19. Assignment

Neither party may, nor have the power to, assign or otherwise deal with its rights or obligations under this Service Contract without the prior written consent of the other party, except that Concept Accountants may without consent assign or novate any agreement with you to a successor of the business of Concept Accountants to which the Service Contract.

20. Notices to produce documents

If we receive any legally enforceable notice or demand issued by a third party, including the Australian Securities & Investment Commission, Australian Taxation Office, Australian Stock Exchange, any government statutory body or instrumentality, or any court or tribunal in relation to or in connection with the Services you agree to pay our reasonable professional costs and expenses (including solicitor client expenses) in complying with or challenging any such notice or demand to the extent that our costs and expenses are not recovered or recoverable from the party issuing the notice or demand.

PART B: CLIENTS' RIGHTS AND OBLIGATIONS UNDER THE TAXATION LAWS*

As a client of this practice, we are obliged to advise you of your rights and obligations under the taxation laws in relation to the services we provide to you. Set out below is a brief explanation of the main areas of the taxation system you should be aware of. If you have any concerns or issues with any of matters discussed below please feel free to contact us.

1. The self-assessment system

The Australian tax system operates as a self-assessment system. This means that when your tax return, FBT return or BAS is lodged the ATO accepts the information in the return at face-value and issues you with an assessment notice based on that information. It is important to understand that 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 in the topic below.

2. The Commissioner's ability to amend an assessment

As explained above, the ATO accepts the information lodged in your return at face value. However, the ATO also has the power to amend the assessment if they find it to be incorrect. The following rules generally apply:

Individuals

For most individuals, the ATO can amend an assessment within two years after you receive your notice of assessment. If the individual carries on a business and is **not** a Small Business Entity, that period extends to four years.

If the individual is a partner in a partnership or a beneficiary of a trust, the period is two years. If the partnership or trust carries on business and is **not** a Small Business Entity, the period extends to four years.

Companies

The ATO can amend a company assessment within two years after the company receives a notice of assessment where the company **is** a Small business Entity. The same period applies where the company is a partner in a partnership or beneficiary of a trust that is a Small Business Entity.

In any other case, the 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** a Small Business Entity.

If the trustee is a partner in a partnership or a beneficiary of a trust that is **not** a Small Business Entity, that period extends to four years.

In any other case, the period is four years.

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

Note: There are no time limits on the ATO amending an assessment where they believe there has been fraud or evasion.

3. Obligation to keep records

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

Individuals

- Individuals claiming deductions for work-related expenses are subject to the Substantiation rules in the tax laws. This requires 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 log book 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 business to keep records that record and explain all the transactions they have entered into. This includes all the documents that explain how the income and expenditure of the taxpayer was determined.
- 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.

4. *Obligation to provide complete and accurate records*

In order for our practice to be able to lodge returns on your behalf, it is your responsibility to provide us with complete and accurate records. Further, in order to lodge your return on time we will require you to provide us the relevant information as and when requested.

Where you are unable to provide us with complete and accurate records, we may be unable to prepare and lodge your return. Tax agents are subject to a Professional Code of Conduct which prevents them from acting for a client where insufficient records or information exists so as to be able to determine the amount of the client's income or deductions.

5. *Records for clients operating in the cash economy*

Because of the ATO's concerns with dealings in the cash economy, there are particular recording imperatives for clients who operate in that sector. In particular, the ATO has a program of "benchmarking" standardised revenue returns for a wide range of cash businesses.

In circumstances where it is dissatisfied with a taxpayer's records or recording systems, the ATO will often assess income tax and/or GST on what it considers to be an appropriate "benchmark" amount (plus penalties and interest) and then put the taxpayer to the task of disproving that assessment.

Where that occurs, the taxpayer is at a serious disadvantage and can be put to a great deal of cost and effort in disputing the assessment.

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 to ensure that the recorded figures are accurate.

If you need assistance in setting up or reviewing your recording and reporting systems, we will be happy to do so and will advise you of our rates for doing so on request.

6. *Right to seek a Private Binding Ruling*

When preparing your return we may identify one or more issues that are not clear under the tax laws. Where we have pointed out such issues to you, you have a right to request a Private Binding Ruling from the ATO. Upon providing the ATO with all the relevant facts, they will provide you with a ruling setting out their view on the proper tax treatment of the issue requested to be ruled upon.

7. *Objecting to an assessment*

If the ATO issues you with an assessment that you do not agree with, you have the right to lodge an objection to that assessment. The objection must be lodged with the ATO within either two or four years. As to which period applies, this is determined in the same way as the discussion above under the heading '*Commissioner's ability to amend an assessment*'.

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 Appeals Tribunal or to appeal the matter to the Federal Court.

8. Onus of proof falls on the taxpayer

It is important to be aware that in any disputed assessment before the court or the Administrative Appeals Tribunal, 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.

9. Your protections under TASA

The *Tax Agent Services Act 2009* (TASA) and complimentary amendments to the applicable taxation administration legislation provide statutory protections for taxpayers who engage registered tax agents.

In particular, as your tax agent we are bound by a statutory Code of Conduct which is administered by a new national Tax Practitioners Board. That Code requires us, amongst other things, to act lawfully in your best interests and with honesty and integrity in the performance of our duties.

10. Safe Harbour Exemptions

In addition, as the client of a registered tax agent, you have statutory "safe harbour" exemptions from penalties in certain circumstances.

- **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?**

In order to benefit from the 'safe harbour' should the need arise, it is a requirement for you to ensure that you provide us with all of the 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 complete 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 Business Activity Statement, Instalment Activity Statement, or Fringe Benefits Tax 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 remit or reduce the penalty.

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