**Contractor Agreement**

For a Contractor to function as a Cinch Advisers Pty Ltd contractor and work within the guidelines of the agreement

**Cinch Advisers Pty Ltd**

**ACN – 615 588 559**

**Table of contents**

[Background 4](#_Toc493051045)

[Agreed terms 4](#_Toc493051046)

[1. Definitions and interpretation 4](#_Toc493051047)

[1.1 Term Definitions 4](#_Toc493051048)

[1.2 Interpretation 6](#_Toc493051049)

[2. Engagement 7](#_Toc493051050)

[3. Contractor’s obligations 7](#_Toc493051051)

[4. Delegation 8](#_Toc493051052)

[5. Tax practitioner supervision 8](#_Toc493051053)

[6. No direction and control 8](#_Toc493051054)

[7. Other work 8](#_Toc493051055)

[8. Principal’s resources 8](#_Toc493051056)

[9. Relationship 8](#_Toc493051057)

[9.1 Nature of relationship 8](#_Toc493051058)

[9.2 Contractor acknowledgements 9](#_Toc493051059)

[10. Payment 9](#_Toc493051060)

[11. Suspension 9](#_Toc493051061)

[12. GST 9](#_Toc493051062)

[12.1 GST exclusive 9](#_Toc493051063)

[12.2 Taxable Supply 9](#_Toc493051064)

[12.3 Later GST change 10](#_Toc493051065)

[12.4 Reimbursement or indemnity 10](#_Toc493051066)

[12.5 Warranty that Tax Invoice is issued regarding a Taxable Supply 10](#_Toc493051067)

[12.6 Progressive or Periodic Supplies 10](#_Toc493051068)

[13. Non-compliant services 10](#_Toc493051069)

[13.1 Options regarding non-compliant services 10](#_Toc493051070)

[13.2 Other rights 10](#_Toc493051071)

[14. Termination 10](#_Toc493051072)

[14.1 Termination with notice 10](#_Toc493051073)

[14.2 Termination without notice 10](#_Toc493051074)

[14.3 Contractor obligations on termination 11](#_Toc493051075)

[15. Indemnity and guarantee 11](#_Toc493051076)

[16. Insurance 12](#_Toc493051077)

[17. Intellectual property 12](#_Toc493051078)

[17.2 Principal material 13](#_Toc493051079)

[17.3 Assignment of Contract IP 13](#_Toc493051080)

[17.4 Warranties 13](#_Toc493051081)

[17.5 Moral Rights 13](#_Toc493051082)

[18. Protection of Principal’s Confidential Information and goodwill 14](#_Toc493051083)

[18.1 Acknowledgements 14](#_Toc493051084)

[18.2 Restraint during engagement 14](#_Toc493051085)

[18.3 Restraint after engagement 14](#_Toc493051086)

[18.4 Severance 14](#_Toc493051087)

[18.5 Consent to release 15](#_Toc493051088)

[19. Survival 15](#_Toc493051089)

[20. Warranties 15](#_Toc493051090)

[21. Assignment 15](#_Toc493051091)

[22. General 15](#_Toc493051092)

[22.1 Amendments 15](#_Toc493051093)

[22.2 Entire agreement 15](#_Toc493051094)

[22.3 No waiver 15](#_Toc493051095)

[23. Severability 16](#_Toc493051096)

[24. Governing law and jurisdiction 16](#_Toc493051097)

[Schedule 17](#_Toc493051098)

[Annexure A 22](#_Toc493051099)

[Annexure B 25](#_Toc493051100)

Contractor agreement

# **Background**

**A** The Principal carries on the Business of accounting, taxation and all its related services.

**B** The Contractor coordinates and communicates taxation, accounting and all its related services to the client by the Principal and has represented and supplied documentation and information to the Principal that it has the skills, experience and expertise required to provide the Services as an independent Contractor.

**C** The Principal has agreed to engage the Contractor on the terms set out in this document.

# **Agreed terms**

## **Definitions and interpretation**

In this document:

### ***Term Definitions***

**Business:** means Cinch Advisers Pty Ltd and their business of accounting, taxation, and all its related services.

**Business Day:** means any day from Monday to Friday that the Principal and Contractor engage in working together

**Claim:** means any claim, action, proceeding or demand, however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

**Client:** means any person, corporation or other entity to whom the Principal or a Related Entity has supplied any product or service and includes potential clients with which the Principal or any Related Entity or any employee, agent, or Contractor of the Principal or a Related Entity has held discussions or provided proposals regarding the supply of any product or service.

*Note – “The Principal and Contractor acknowledge that the clients and associated fees invoiced through Cinch Advisers Pty Ltd are owned in the proportion of the fees received by Cinch Advisers Pty Ltd and the Contractor*

**Commencement Date:** has the meaning set out in the Schedule.

**Completion Date:** has the meaning set out in the Schedule.

**Confidential Information**: means any information provided or to which access is given by the Principal or a Related Entity to the Contractor and all information which:

* + - the Principal or a Related Entity indicates is confidential;
    - by its nature, might reasonably be understood to be confidential or to have been disclosed in confidence;
    - would be of commercial value to a competitor of the Principal or a Related Entity;
    - relates to any arrangements or transactions between the Principal, or a Related Entity, and a Client or a supplier of the Principal (including information relating to the fees charged to Clients or payable to a supplier and details of the arrangements or transactions);
    - relates to any Clients (including Client details, Client lists or databases, details of Client requirements, details of Client prospects, the identity of any Client and their requirements);
    - relates to or is contained in any of the Principal’s or a Related Entity’s computer databases;
    - financial records, reports, accounts and proposals of the Principal or a Related Entity;
    - relates to the marketing and selling techniques used by the Principal or a Related Entity (including marketing plans, sales plans, research and surveys); and
    - all notes and records, copies or extracts relating to the information, notes and other records referred to in paragraphs (a) to (h)of this definition.

**Entitlements**: means any salary, wages, allowances, annual leave or payment in respect of annual leave, long service leave or payment in respect of long service leave, notice of termination or payment in lieu of notice of termination, redundancy pay, commissions, bonuses, reimbursement of expenses, superannuation and any entitlement which may be owed or payable pursuant to any award, agreement or other industrial instrument, statute or employment contract to which an employee may be entitled in respect of their employment or the termination of that employment.

**Services:** means the services provided by the Principal including access to tax return preparation software and services, information and other content owned or licensed by Cinch Advisers in the preparation and lodgement of annual tax returns electronically, tax advice, corporate secretarial services, general accounting, bookkeeping, workflow management, document management system, email exchange service, and all other related services.

**Fees:** has the meaning set out in the Schedule.

**GST Act:** is the Goods and Services Tax Act 1999

**GST:** has the meaning given to that term in the GST Act.

**Input Tax Credit:** has the meaning given to that term in the GST Act.

**Intellectual Property Rights:** for the purpose of this agreement means intellectual property rights in Australia and includes any copyright, Moral Right, patent, registered or unregistered trade mark, registered or unregistered design, know-how, trade, business or company name, indication or source or appellation of origin or other proprietary right, or right of registration of such rights.

**Key Person**: has the meaning set out in the Schedule.

**Loss**: means any loss, expense, all costs and unlimited charges, expenses, taxes, penalties, fines, premiums, compensation or damages.

**Materials:** includes documents, software, configurations, reports, technical information, plans, and data stored by any means.

**Personnel:** means an employee, Contractor, agent or officer of the Contractor, including the Key Person.

**Principal Material**: means any Material which is provided or made available by the Principal to the Contractor in connection with this document including in the course of, as a consequence of or in relation to the Contractor providing the Services.

**Progressive or Periodic Supply**: means a Taxable Supply that satisfies the requirements of section 156-5 of the GST Act.

**Recipient**: has the meaning given to that term in the GST Act.

**Representative Member:** has the meaning given to that term in the GST Act.

**Resources:** includes equipment, tools of trade, materials, facilities, premises, utilities, transport, accommodation, stationery, staff, labour, professional services, administration services and research materials.

**Services:** has the meaning set out in the Schedule.

**Supplier:** means the entity making the Supply.

**Supply**: has the meaning given to that term in the GST Act.

**Tax Advice and Other Fees:** means the fee charged for written tax and other advice.

**Tax Invoice:** has the meaning given to that term in the GST Act.

**Tax Return Fees:** means the fee charged to the client

**Taxable Supply:** has the meaning given to that term in the GST Act.

### ***Interpretation***

In this document:

* + 1. a reference to a clause, schedule, annexure or party is a reference to a clause of, and a schedule, annexure or party to, this document and references to this document include any schedules or annexures;
    2. a reference to a party to this document or any other document or agreement includes the party’s successors, permitted substitutes and permitted assigns;
    3. if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
    4. a reference to a document or agreement (including a reference to this document) is to that document or agreement as amended, supplemented, varied or replaced;
    5. a reference to this document includes the agreement recorded by this document;
    6. a reference to legislation or to a provision of legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
    7. if any day on or by which a person must do something under this document is incomplete, then the person must do it on or by the next Business Day;
    8. a reference to a person includes a corporation, trust, partnership, unincorporated body, government and local authority or agency, or other entity whether or not it comprises a separate legal entity; and
    9. any reference to ‘month’ means calendar month.

## **Engagement**

The Principal engages the Contractor to provide the Services in accordance with this document from the Commencement Date until this document terminates.

## **Contractor’s obligations**

The Contractor must:

At all times act in accordance with this agreement and in accordance with the Principals set and documented procedures and operations manuals.

It is the Contractor’s sole responsibility to ensure that all work carried out under the Principals business is in full accordance with the Principals procedures and operations manuals. If any liability arises from the Contractor not following the documented procedures and operations manuals, or direct written instructions by the Principal and its representatives the Contractor is liable for all or any losses, fines, penalties, or damages which may arise from such actions.

The Contractor must at all times adhere to direction from the Principal and never work outside the documented procedures and operations manuals. The Contractor is also bound by all of the following points, and the consistent upgrading of the internal procedures and operations manuals;

* + 1. ensure that it does not make inaccurate, misleading or untrue statements and does not knowingly withhold information in the provision of the Services and communications with the Principal and clients;
    2. maintain at its own expense any permits, licences, accreditations, certificates, registrations or any similar authorisations the Contractor is required to possess by any relevant regulatory body or statute, rule or regulation in order to provide the Services;
    3. take all reasonable steps to protect and ensure the security of all Confidential Information in the Contractor’s possession, power or control;
    4. comply, and ensure compliance by the Personnel, with the Principal’s policies and procedures at all times;
    5. comply, and ensure compliance by any Personnel, with the Principal’s Terms of Use and procedures and operations manuals;
    6. ensure that any Personnel do not make any statements to the media in relation to the Principal, the Business or the Services without the Principal’s prior written approval;
    7. ensure that any Personnel do not have contact with a client without prior permission of the Principal in writing and the Personnel has provided all documentation as required by the Principal
    8. ensure that any Personnel or Contractor do not give any taxation advice unless that advice is in writing and has been approved by the Principal prior to being provided to the client.

## **Delegation**

The Contractor may delegate to the Personnel the performance of the work necessary to provide the Services, provided that the Principal has provided written approval for the Personnel to do so.

The Contractor must obtain written approval of all Personnel and the Personnel must act in accordance with the Principals policies and procedures at the time.

It is the Contractors responsibility to seek the written approval from the Principal and the Contractor holds any and all liabilities which may now and in the future arise from the Personnel or any of the Personnel’s actions in any form.

## **Tax practitioner supervision**

The Contractor agrees to comply with, and ensure its Personnel comply with, all requirements and directions made by the Principal in order to satisfy its and the Principal’s obligations:

* + 1. under the Tax Agent Services Act 2009 (Cth); and
    2. to the Tax Practitioners’ Board,

including, but not limited to, requirements and directions relating to the supervision and control of the Contractor in the preparation of tax returns and tax advice.

The Contractor is responsible for supervision and control of Personnel according to TPB regulations and must report any non-compliance to Cinch Advisers using systems, procedures and work instructions made available by Cinch Advisers.

## **No direction and control**

Subject to this document, the Contractor is not subject to the direction and control of the Principal as to the manner in which the Contractor provides the Services.

## **Other work**

The Contractor may perform any type of work at the Contractor’s discretion, provided the Contractor has obtained written approval from the Principal to do so, and in doing so satisfies the Contractor’s obligations under this document.

## **Principal’s resources**

The Principal agrees to provide to the Contractor access to systems and procedures to perform some of its services.

## **Relationship**

### ***Nature of relationship***

* + 1. The parties agree that their relationship is one of Principal and independent Contractor, not employer and employee, Principal and agent, joint venturers or partners and that:
    2. other than pursuant to the agreement in the Annexure, no contractual or employment relationship will arise between the Personnel and the Principal as a result of this document;
    3. the Contractor does not have the right or authority to act on behalf of or bind the Principal, and will not indicate to any third party that it has that right or authority unless expressly authorised by the Principal in writing.

### ***Contractor acknowledgements***

The Contractor acknowledges and agrees that:

* + 1. neither it nor the Personnel are entitled to any Entitlements from the Principal; and
    2. the Contractor is responsible for providing Personnel with any Entitlements.

## **Payment**

The Principal will pay the Contractor the Fees for providing the Services on the following basis:

* + 1. the Principal will generate a fortnightly recipient created tax invoice (RCTI) for the Contractor in accordance with the documented procedures and operations manuals;
    2. the Principal will pay the Contractor on a fortnightly basis on receipt of client payment for the preceding fortnight;
    3. the Contractor will not be entitled to any consideration from the Principal in excess of the Fees, and will not be entitled to any consideration unless it is invoiced in accordance with this clause.

## **Suspension**

The Contractor:

* + 1. may, with the written agreement of the Principal, suspend the provision of the Services for the purposes of providing the Key Person or the Personnel with leave entitlements; and
    2. acknowledges that no Fees will be payable in respect of any period of suspension.

## **GST**

### ***GST exclusive***

* + 1. Except under this clause, the consideration for a Supply made under or in connection with this document does not include GST.

### ***Taxable Supply***

* + 1. If a Supply made under or in connection with this document is a Taxable Supply, then at or before the time any part of the consideration for the Supply is payable:
    2. the Recipient must pay the Supplier an amount equal to the total GST for the Supply, in addition to and in the same manner as the consideration otherwise payable under this document for that Supply; and
    3. the Supplier must give the Recipient a Tax Invoice for the Supply.

### ***Later GST change***

For clarity, the GST payable under clause 12.2 is correspondingly increased or decreased by any subsequent adjustment to the amount of GST for the Supply for which the Supplier is liable, however caused.

### ***Reimbursement or indemnity***

If either party has the right under this document to be reimbursed or indemnified by another party for a cost incurred in connection with this document, that reimbursement or indemnity excludes any GST component of that cost for which an Input Tax Credit may be claimed by the party being reimbursed or indemnified, or by its Representative Member, Joint Venture Operator or other similar person entitled to the Input Tax Credit (if any).

### ***Warranty that Tax Invoice is issued regarding a Taxable Supply***

Where a Tax Invoice is given by the Supplier, the Supplier warrants that the Supply to which the Tax Invoice relates is a Taxable Supply and that it will remit the GST (as stated on the Tax Invoice) to the Australian Taxation Office.

### ***Progressive or Periodic Supplies***

Where a Supply made under or in connection with this document is a Progressive or Periodic Supply, clause 12.2 applies to each component of the Progressive or Periodic Supply as if it were a separate Supply.

## **Non-compliant services**

### ***Options regarding non-compliant services***

If the Principal is not satisfied that the Services comply in all respects with the requirements of this document and the documented procedures and operations manuals of the Principal, the Principal may:

* + 1. require the Contractor to take such steps as are necessary to ensure that the Services comply with this document
    2. rectify the Services which do not comply with this document.

### ***Other rights***

The Principal’s rights under clause 13.1 do not in any way change or affect the Contractor’s obligations under this document or affect the Principal’s rights to claim for any Loss the Principal may suffer because of the Contractor’s failure to fulfil its obligations under this document.

## **Termination**

### ***Termination with notice***

Either party may terminate this document for any reason by giving the other party 14 days’ notice in writing. The Principal may, at its discretion, pay the equivalent Fees in lieu of notice.

### ***Termination without notice***

The Principal may terminate this document without notice if:

* + 1. in the Principal’s reasonable opinion, the Contractor or Personnel has been negligent in the provision of the Services or the performance of any work necessary to provide those Services;
    2. the Contractor engages in serious misconduct, which has its ordinary meaning at law, and includes dishonesty, theft or fraud.
    3. the Contractor wilfully disregards the Principal’s documented procedures and operations manuals and any written instructions for the performance of the Services;
    4. the Contractor fails to comply with the Tax Agent Services Act 2009 (Cth) or any requirement of the Tax Practitioners’ Board;
    5. the Contractor or any Personnel breaches any legislation, rule or regulation in the provision, or attempted provision of the Services or which, as a result of the breach, will limit the Contractor’s ability to lawfully provide the Services to any extent;
    6. the Contractor fails to remedy a breach of any other term of this document within five Business Days of being asked to do so by the Principal; or in the Principals opinion damages or is likely to damage the Principals relationship with a client.

### ***Contractor obligations on termination***

Immediately on the termination of this document, or upon request at any time by the Principal, the Contractor must:

* + 1. report to the Principal promptly and fully with the information that it requires relating to the Services and the engagement of the Contractor pursuant to this document, including:
    2. deliver to the Principal all items of Confidential Information in the Contractor’s possession,
    3. permanently erase all Confidential Information from the Contractor’s electronic storage devices; and
    4. deliver to the Principal all property belonging to the Principal issued to the Contractor or any Personnel by or on behalf of the Principal.
  1. **Payment on termination**

On termination of this agreement, the Contractor is entitled to payment only for Services completed prior to termination.

## **Indemnity and guarantee**

The Contractor is liable for, and indemnifies and holds harmless the Principal from any Loss incurred or suffered by the Principal caused by:

* + 1. the acts, errors or omissions of the Contractor or Personnel, including a breach of this document or that may arise by way of vicarious liability;
    2. the Principal treating the relationship between it and the Contractor as one of independent Contractor in respect of which:
       1. PAYG withholding tax need not be deducted;
       2. superannuation, fringe benefits tax and payroll tax need not be paid;
       3. workers’ compensation insurance need not be maintained; and
       4. legislative and industrial instrument provisions dealing with employment are not applicable; or
    3. any alleged or actual infringement of a third party’s Intellectual Property Rights or other rights in connection with:
       1. the Services;
       2. the Contractor Material or Contractor IP; or
       3. the Contractor’s performance of its obligations under this document,

including a Claim or threatened Claim by a third party that use of the Contractor Material or exercise of the Contractor IP by the Principal or its Related Entities infringes the Intellectual Property Rights or other rights of that third party.

## **Insurance**

The Contractor is required to have in place and keep current all insurance policies in respect of and covering workers’ compensation, motor vehicle, public liability, and independent income protection. The Principal is not responsible or liable for any personal insurance of the Contractors in respect to any activity undertaken by the Contractor.

## **Intellectual property**

The Contractor

* + 1. The Contractor hereto will not cause or permit anything which may damage or endanger the Intellectual Property of the Principal;
    2. The Contractor will notify the Principal of any suspected infringement of the Intellectual Property or other Intellectual Property of the Principal by a third party and shall co-operate fully with the Principal in any action taken by the Principal against such third parties. The Principal shall bear all costs and expenses reasonably incurred by the Contractor in the course of co-operating with the Principal in such legal action;
    3. The Contractor will take such reasonable action as the Principal may direct at the expense of the Principal in relation to such infringement;
    4. The Contractor will affix such notices to the Products of their packaging or advertising associated with the business as directed by the Principal;
    5. The Contractor will compensate the Principal for any use by The Contractor of the Intellectual Property otherwise than in accordance with his Agreement;
    6. The Contractor will indemnify the Principal for any liability incurred to third parties for any use of the Intellectual Property otherwise than in accordance with this Agreement;
    7. The Contractor will on the expiry or termination of this Agreement forthwith cease to use the Intellectual Property of the Principal;
    8. The Contractor shall not sell or otherwise distribute any Products under any name, logotype, or designation other than as specifically permitted by this Agreement without the prior written consent of the Principal. The Contractor will not tamper with any markings or name plates or other indication of the source of origin of the Products which may be placed by the Principal on the Products;
    9. The Contractor will not use the Intellectual Property otherwise than as permitted by this Agreement;
    10. The Contractor will hold any additional goodwill generated by the Contractor for the Intellectual Property or the agency as bare trustee for the Principal;
    11. The Contractor acknowledges and agrees that it shall not acquire any right, title or interest in such Intellectual Property and that at all times all right, title and interest in such Intellectual Property shall remain with the Principal.

### ***Principal material***

The Contractor:

* + 1. must use the Principal Material only in accordance with any directions given by the Principal and only to the extent necessary to provide the Services;
    2. is responsible for the safe keeping and maintenance of any Principal Material; and
    3. acknowledges and agrees that:
       1. the Principal retains all Intellectual Property Rights in the Principal Material; and
       2. nothing in this document is intended to grant the Contractor any Intellectual Property Rights or other rights in the Principal Material.

### ***Assignment of Contract IP***

The Contractor has full ownership and rights of the Contractor IP.

### ***Warranties***

The Contractor represents and warrants, and it is a condition of this document, that:

* + 1. use of the Contractor Material will not infringe the Intellectual Property Rights or other rights of any third party; and
    2. the exercise of the Contractor IP will not infringe the Intellectual Property Rights or other rights of any third party.

### ***Moral Rights***

The Contractor:

* + 1. must ensure that each author of Contractor Material genuinely and irrevocably consents to any acts or omissions of any person including the Principal in connection with that Contractor Material, whether occurring before, on or after the Commencement Date, which might otherwise infringe the Moral Rights of the author;
    2. without limiting clause 18.4, must ensure that each author of Contractor Material irrevocably and genuinely consent to any use of that Contractor Material without identification of the author as the author or creator of the Contractor Material;
    3. represents and warrants that the Contractor did not rely upon any statement or representation made by the Principal before granting the consent contemplated by clause 17.4; and
    4. without limiting clause 17.4, if requested by the Principal in a particular case, agrees to ensure that each author of the Contractor Material consent to any specific act or omission nominated by the Principal that may otherwise infringe the Moral Rights of the authors.

## **Protection of Principal’s Confidential Information and goodwill**

### ***Acknowledgements***

The Contractor acknowledges that:

* + 1. during its engagement by the Principal, it will have access to Confidential Information and may acquire a detailed knowledge of the Principal’s clients and their businesses, and have the opportunity to build relationships with the Principal’s clients, employees and others engaged in the Principal’s business;
    2. it is reasonable and necessary for the Principal to protect its goodwill, Confidential Information, client relationships and workforce by the restraints in this clause.
    3. The Contractor acknowledges that it holds authority from any client, verbal or otherwise, to add any client information to the Cinch Advisers systems in fulfilling the obligations of the client engagement and that the client accepts the terms of use of all Cinch Advisers systems.

### ***Restraint during engagement***

The Contractor must not, during its engagement by the Principal, otherwise than in the normal course of providing the Services:

* + 1. induce, encourage or solicit any employee, Contractor or agent of the Principal to terminate their engagement with the Principal; or
    2. induce, encourage or solicit any of the Principal’s customers, Clients or suppliers to end or restrict their trade relationship with the Principal.

### ***Restraint after engagement***

The Contractor must not for six months after termination of this document: induce, encourage or solicit any of the Principal’s customers, Clients or suppliers with whom the Contractor has had contact in the 12 months preceding termination of this document, to end or restrict their trade relationship with the Principal.

### ***Severance***

The validity of each separate restraint is not affected by the invalidity, if any, of any other restraint.

### ***Consent to release***

The Contractor may seek the Principal’s consent in writing to be released from any restraint.

## **Survival**

Each indemnity in this Agreement shall:

* + 1. be a continuing obligation;
    2. constitute a separate and independent obligation of the party giving the indemnity from its other obligations under this Agreement; and
    3. survive termination of this Agreement.

## **Warranties**

The Contractor warrants that:

* + 1. it and the Personnel possess the necessary skills, qualifications, training and expertise to perform the Contractor’s obligations under this document and to provide the Services;
    2. it will not infringe the Intellectual Property Rights of any third party or otherwise breach any law or obligation to any third party in the performance of its obligations under this document or in providing the Services; and
    3. at the Commencement Date, no conflict of interest exists or is likely to arise in the performance of its obligations under this document.

## **Assignment**

The Contractor cannot assign this document or any part of this document at any time.

## **General**

### ***Amendments***

This document may only be amended by written agreement between all parties.

### ***Entire agreement***

* + 1. This document supersedes all previous agreements about its subject matter. This document embodies the entire agreement between the parties.
    2. To the extent permitted by law, any statement, representation or promise made in any negotiation or discussion, is withdrawn and has no effect except to the extent expressly set out or incorporated by reference in this document.
    3. Each party acknowledges and agrees that it does not rely on any prior conduct or representation by the other party in entering into this document.

### ***No waiver***

* + 1. The failure of a party to require full or partial performance of a provision of this document does not affect the right of that party to require performance subsequently.
    2. A single or partial exercise of or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy.
    3. A right under this document may only be waived in writing signed by the party granting the waiver, and is effective only to the extent specifically set out in that waiver.

### ***Severability***

A clause or part of a clause of this document that is illegal or unenforceable may be severed from this document and the remaining clauses or parts of the clause of this document continue in force. If any provision is or becomes illegal, unenforceable or invalid in any jurisdiction, it is to be treated as being severed from this document in the relevant jurisdiction, but the rest of this document will not be affected.

### ***Governing law and jurisdiction***

* + 1. Queensland law governs this document.
    2. Each party irrevocably submits to the non-exclusive jurisdiction of the Queensland courts and courts competent to hear appeals from those courts.

# **Schedule**

Agreement details

Commencement date:

**Key Person Definition**

This key person is the individual person who is the sole Contractor signing this agreement or is the authorised officer of the corporate entity signing the agreement. This is the person carrying out the services described in this schedule.

**Name of Key Person­­­­­­­­­­­­­: ­**

Cinch Advisers (Principal in this agreement) “Services and Systems”

Cinch Advisers is providing a cloud based system to perform the Contractor duties in accordance with this system. This provides access to general ledger and taxation software required by the Contractor to perform its services.

Cinch Advisers is responsible for the compliance check and review of all the Contractor jobs prior to lodgement of the job or release to client of the job. Cinch Advisers further responsibilities include, quality assurance compliance, compliance with ATO and TPB regulations, review tax estimates, review checklists, review working papers, review clients and Contractor supplied documents, tax return lodgements, validation of lodgements, and production of full financial statements, plus all associated activities if requested by the consultant. All other general care and attention deemed reasonable in the business of accounting and taxation.

**Contractor Services**: Add clients onto Cinch Advisers ATO portal after the receipt of a signed Cinch Advisers engagement letter which has been loaded onto the system. This engagement letter will confirm all parties’ responsibilities for the engagement.

Upload all relevant documents to the systems. Coordinate delivery of services to clients including preparation and review of financial accounts and tax returns for individuals, partnerships, trusts, companies, and self-managed superannuation funds. Include all supporting work papers, communications, and any other requested documentation by Cinch Advisers as required to support the tax returns.

Answer client emails and correspondence. Answer client queries via email, web, or telephone. Render client fees and manage client billing on the system. Ensure all tax related client advice given comes from Cinch Advisers via a review process with head office reviewers.

Follow the documented procedures and operations manual within the system and all written instructions issued by Cinch Advisers.

**Fees**

There are three (3) sets of fees included in this agreement; the initial joining fee, monthly system rental fee and the percentage fee per job undertaken through Cinch Advisers.

**Initial Start-up Fee**:

This is a one off joining fee which is payable upon the signing of this agreement.

Set Fee of – $XXXXX including GST

**Monthly Systems & Resources Fee:**

This provides full, secure access to our web-based and live 24/7 system which includes the most effective applications for communication and the efficient delivery of services to a high standard; a full suite of up to date, templated documents for Marketing, Client Engagement, Service Delivery, and end to end client service Administration; Training Content for Job Preparation and Systems, and Business Development.

Ongoing Monthly Fee - $199.00 Including GST

This fee must be paid by direct debit on a day of the month agreed by Principal and Contractor. Should the Contractor default on payment of the monthly fees, the Principal reserves the right to deduct the outstanding fees from fees due and payable to the Contractor from services performed under this agreement.

**Service Provision Fees:**

Principal and Contractor Services Fee

These fees cover the services provided by the Principal to the Contractor as per this agreement.

The Contractor fee received ranges from 10% to 92% of the fees invoiced from Cinch Advisers and is dependent on the level of responsibly the Contractor has undertaken on each job.

In Annexure A to this agreement are three (3) Contractor Package levels with separate Contractor fee structures. These fee structures have been developed to enable Contractors to receive service levels from the Principal which are dependent on the Contractor skills, experience and relevant qualifications. Within each of these three (3) Contractor packages are further options available to the Contractor on each job, and the choice of the option remains at the discretion of the Contractor, unless it becomes evident to the Principal that the Contractor is not equipped to participate at the chosen option.

The Principal provides to the Contractor a minimum price policy which establishes a baseline from which the fee % retained by the Principal are set. The minimum prices as set out in the minimum price policy remain at the discretion of the Principal and may be varied from time to time with reasonable consideration given to market conditions as they relate to the Principals cost of providing services to the clients. Should the Contractor provide services which are invoiced to a client at below the minimum price policy, the Principal will retain its % of fees as if the minimum prices had been invoiced. The minimum pricing set at the time of the signing of this agreement is provided at Annexure B.

**Parties**

**Principal**: Cinch Advisers Pty Ltd ACN 615 588 559

of 86 Brookes Street, Fortitude Valley QLD 4006

**Contractor:**

Contractor is executing this contract as:

|  |  |  |  |
| --- | --- | --- | --- |
|  | Sole Trader |  | Corporate Entity |

|  |  |
| --- | --- |
| Contractor Name: |  |
| Of: | |
| Business Address: |  |

|  |  |
| --- | --- |
| ABN: |  |
| ACN: |  |

**EXECUTED as an agreement.**

I confirm that I have read the agreement and understand the terms

I accept the terms of the agreement

Signed by:

|  |  |
| --- | --- |
| Signer Name: |  |
| On behalf of: |  |
| Date: |  |

|  |  |
| --- | --- |
| Signature: |  |

Signed by:

|  |  |
| --- | --- |
| Signer Name: |  |
| On behalf of: | **Cinch Advisers Pty Ltd** ACN 615 588 559 |
| Date: |  |

|  |  |
| --- | --- |
| Signature: |  |

# **Annexure A**

Contractor Package Levels.

**Foundation:** Fee income % options paid to Contractor (Partner)



**Expansion:** Fee income % options paid to Contractor (Partner)



**Freedom:** Fee income % options paid to Contractor (Partner)



**Contractor Package Approval:** Three levels: Foundation -> Expansion -> Freedom.   
  
*Foundation* – Contractor with relevant experience and qualifications to become a Contractor with the Principal. Contractor with no, or minimal experience in the Compliance based services which include the preparation of non-individual Tax Returns (Income Tax, Activity Statements, and Fringe Benefits) and the preparation of compliance based Special Purpose Financial Reports.

Minimum Requirements:

* Bachelors Degree in Acccounting, Finance or Economics
* More than 5 years accounting experience which includes the preparation of both statuatory financial reporting and special purpose financial reporting for business management purposes.
* Minimum of foundation level taxation education from a recognised Australian Education provider.

*Expansion* – Contractor is capable of completing Compliance based services without assistance or rework from the Principal. The Contractor has proven they consistently complete jobs with less the three (3) revision or query points from the supervising/reviewing Senior Tax Accountant and Agent.

Minimum Requirements:

* All of the above Foundation package requirements.
* 12 months experience in producing and dealing with non-individual special purpose financial reports for taxation purposes; or a minimum preparation of five (5) special purpose financial reports and corresponding workpapers and reconcillation items, with less than three (3) taxation or financial report related iterations of year end financial statements and tax returns.
* Current membership to one of Australia’s three recognised professional accounting bodies – Insitute of Chartered Accountants ICA, Certified Practicing Accountants CPA, Institute of Public Accountants IPA.

*Freedom* – Contractor has reached a critical decision point with regards to their investment in the business. This decision pertains to creating and managing a team to free up their time to take on new clients, or to stay the same level and remain the technician. This package level is designed to provide the Contractor with a fully outsourced team, operating as their own, to free up their time to use their client generation and communication skills, and technical knowledge to provide high level client advice, leaving the accounting and tax preparation work to the Principal to manage. The acceptance of a Contractor to operate within the Freedom Package whereby the Principal provides the support team is solely at the discretion of the Principal. The Contractor is not restrained from employing their own team at any level of Contractor Package, however, each new technical member of the Contractors team who is interacting directly with clients must be approved by the Principal in accordance with the Principals obligations to the TPB.

Minimum Requirements:

* All of the above Expansion package requirements.
* Minimum of five (5) years experience in public practice or an executive level commercial financial management role.
* Proven capability and experience with delivering advice services which do not require head office review.

**Contractor Service Provision Approval:**

Approved services without review – For the Principal to meet the necessary Professional Standard compliance requirements, and to maintain the necessary Professional Indemnification Insurance, the Contractor must request formal written approval prior to commencement of the first job performed which does not require Principal review. The Contractor will be required to show relevant experience and qualifications to provide services without approval. The Principal maintains the right from time to time, to review the work performed under this option. Contractor can be approved for ‘services without review’ irrespective of their approved package level.

Specialist Services – referred to you – for Contractors approved to deliver services which fall outside of the tax return review process, per “approved jobs without review” the Principal will facilitate job referrals from the Principal to the Contractor for jobs which fall within those service lines.

**Client Invoicing:**

An additional requirement for professional indemnification insurance is that all invoicing and receipt of payment is to take place via Cinch Accountants & Advisers accounting system. All invoices require Principal approval and the client file must contain a signed engagement letter and suitably completed fee proposal calculator.

# **Annexure B**

Please click the following link to access Annexure B – [Cinch Fee Schedule](https://www.dropbox.com/s/fw3x5ytpv3g1gqa/cinch%20fee%20schedule%20v13.9.17.xlsx?dl=0)