

SKILLS CONSULTING GROUP: SERVICE AGREEMENT – GENERAL TERMS AND CONDITIONS

Published: 1 July 2021

Effective: 1 July 2021

AGREEMENT

The documents forming the contract between us are:

This Service Agreement

Statement(s) of Work or Service Schedule(s)

Any other attachments to the Statement(s) of Work or Service Schedule(s).

This Service Agreement sets out the general terms and conditions that apply to an engagement with Skills Consulting Group.

A separate Statement of Work or Service Schedule will be agreed for the specific Services to be carried out.

We will meet regularly to discuss any matters that arise about the Services under this Agreement.

RESPONSIBILITIES

We will:

- provide the Services in accordance with the terms of this Agreement and Statement(s) of Work or Service Schedule.
- perform the Services using a sufficient number of appropriately experienced, qualified, competent, trained, and efficient personnel. They will apply the relevant professional associations' codes and standards and best industry practice.
- maintain appropriate insurance for the term of this Agreement.

You will:

- provide all information in your possession that is necessary to enable Skills Consulting Group to fulfil its obligations under this Agreement.

Joint responsibilities:

- we agree to meet all our respective obligations under the applicable health and safety legislation.

CONFIDENTIALITY

We each agree that we will not disclose any Confidential Information relating to this Agreement or the contents of this Agreement. This requirement extends to any of our respective employees or contractors who have access to confidential information. The definition of Confidential Information is below.

Exceptions. The only situations where Confidential Information or the contents of this Agreement may be disclosed are:

- a. where the party who owns the information has given written permission, or
- b. where disclosure of the information is required by law, or
- c. where that information has already become public. This exception does not apply when the information is public because one party has breached this Agreement, or
- d. for the purpose of taking professional advice.

PRIVACY

We each agree that any personal information obtained by us in relation to this Agreement may only be collected, held, used, and or distributed in accordance with the Privacy Act 2020 or any replacement legislation.

No personal information will be made available to a third party without the specific written agreement of the individual concerned.

FEES

Payment of Fees: You will pay the Fees to “Skills Consulting Group Limited” in accordance with the payment terms set out below.

Amending Fees: Annually, from date of signing the Supplier may increase the Fees by 2% or the current consumer price Index in place + 1%, whichever is the greater.

Default interest: We reserve the right to Fee interest at the rate of 4% over the bank lending rate of our bankers on late payment of any Fees.

GST: Unless otherwise expressly stated all Fees or sums payable in connection with this Agreement are exclusive of any GST, if any.

If you provide us with a purchase order, we will follow the requirements of that purchase order.

EXPENSES

Any expenses we incur to carry out the Services will be charged to you at cost, including any travel, transport, mileage, accommodation, and travel time.

Should any postponements or cancellations be requested by you once travel and accommodation costs have been incurred by us, you will fully refund the incurred costs and any associated cancellation or postponement Fees.

PAYMENT TERMS

Payment Terms: Skills Consulting Group Limited will invoice you at the end of each month for services provided during that month. Invoices will be provided by the 5th day of the following month.

All invoices are payable by the 20th of the month of invoice.

For services that are subject to a regular monthly fee, such fees will be payable in advance.

DISPUTES

If direct negotiations between the parties do not achieve a resolution of any dispute arising out of this Agreement, that dispute will be referred to mediation for resolution.

OWNERSHIP OF INTELLECTUAL PROPERTY RIGHTS

Unless we agree otherwise in writing:

- You retain ownership of all your Intellectual Property Rights
- We retain ownership of all our Intellectual Property Rights
- Ownership of any new Intellectual Property developed in connection with this Agreement will be agreed in the relevant Statement of Work.

LIABILITY

Neither of us will be liable for any losses, damages, costs, or expenses of any kind whatsoever resulting from our supply of Services when caused by the other party's negligence or by breach of this Agreement.

If you have any basis for recovering damages (including breach of these terms), you agree that your exclusive remedy is to recover from us or any service providers, direct damage up to an amount equal to your fees for the month during which the loss or breach occurred. You cannot recover any other damage or losses, including direct, indirect, consequential, lost profits or punitive damages.

WARRANTY

We do not guarantee the Services will provide or contribute to any particular result or outcome for you or any of your employees.

ENDING THIS AGREEMENT

- Either of us may end this Agreement or a Statement of Work by giving at least 60 Business Days' notice in writing to the other.
- Either of us may end this Agreement or a Statement of Work with no notice to the other in the following circumstances:
 - a. **Mutual Agreement:** by written agreement between us, or
 - b. **Breach of Obligations:** if either of us fails, for no good reason, to perform any of our obligations in this Agreement, or
 - c. **Change of ownership:** if any change occurs in either party's legal ownership that impacts (or may impact) on the Services being provided under this Agreement, or
 - d. **Material Adverse Change:** if, in either party's reasonable opinion, there is a material adverse change in the other's financial condition, operations, or operational ability, or either party becomes insolvent.
- If this Agreement is ended this will not prejudice either party's rights or obligations relating to anything that happened before the end of the Agreement.
- If this Agreement is ended you will pay any Fees due for Services delivered up to the end date of the Agreement. You will pay us for any payments that are due on or before the end date of the Agreement.
- If this Agreement is ended, we will, in good faith, stop using each other's property, and, where applicable, return that property to the other. This includes Intellectual Property.

GENERAL PROVISIONS

Assignment - Neither of us may assign or sub-Agreement its obligations under this Agreement to any third party except with the written consent of the other.

Completeness - These terms represent the entire Agreement between us.

Governing law - New Zealand laws and courts apply to this Agreement.

Replacement - This Agreement replaces all previous written or oral agreements or understandings between us about the subject matter of this Agreement.

Survival - The Confidentiality, Privacy, and Ownership of Intellectual Property Rights clauses will continue to apply after the end of this Agreement.

Variation - These terms may be varied from time to time by mutual agreement between us in writing.

DEFINITIONS

Agreement means this Service Agreement and any Statement(s) of Work or Service Schedule(s).

Business Day means Monday to Friday excluding New Zealand public holidays.

Fees means the Fees payable by you under any Statement of Work.

Confidential Information means all information or data, in any form or medium whatsoever, relating to us and/or you which by its nature, or by the circumstances of its disclosure, is, or could reasonably be expected to be, regarded as confidential.

Intellectual Property Rights means all intellectual property rights and interests, including copyright, trademarks, designs, patents, and other proprietary rights, recognised, or protected by law.

Services means the services supplied by us to the Customer detailed in a Statement of Work.

Service Schedule means a schedule detailing the Services.

Statement(s) of Work means a statement of work detailing the Services.