

TERMS OF ENGAGEMENT

These terms and conditions as amended by The Mortgage Lab NZ Limited (MLNZ) from time to time (Terms) form the agreement between us and you in relation to the supply of the services.

1. DEFINITIONS

1.1 The following terms will have the following definitions in this agreement unless the context otherwise requires:

Adviser means any adviser connected with MLNZ that provides the Services.

Force Majeure Event means any event or circumstance (whether arising from natural causes, human agency or otherwise) that is beyond the reasonable control of MLNZ.

Product Providers means banks, insurers, KiwiSaver scheme providers and other financial institutions with whom MLNZ places your business in connection with the Services.

Services means any mortgage, lending, insurance, financial, KiwiSaver and brokering services provided by MLNZ to you from time to time.

We/MLNZ means MLNZ, any Related MLNZ Company or any Adviser trading or providing the Services on behalf of MLNZ.

You/Client means the person or entity to whom we are providing the Services.

2. SERVICE STANDARD

2.1 We shall perform the services and in performing such Services shall:

(a) use such due care, skill and judgment as would be reasonably expected of a competent and professional provider of services such as the Services; and

(b) comply with all relevant legal and professional obligations

2.2 All warranties, guarantees or conditions, express or implied (including any implied warranties under the Contract and Commercial Law Act 2017) that may be excluded to the maximum extent permitted by that applicable law.

3. FEES

3.1 We are paid by Product Providers in the form of a commission, and may also receive ongoing commission for the life of the financial product(s) placed in connection with the Services (Commissions).

3.2 If any relevant financial product is discharged or otherwise dealt with by you that results in MLNZ being required under its relevant arrangement with the Product Provider to repay or return any Commission(s) (Clawback), then MLNZ will be entitled to invoice you for the lower of:

(a) the amount of the Clawback; or

(b) an amount calculated by reference to the actual hours incurred by us in provision of the Services and our hourly rate (\$250) with a capped maximum of \$2,500.

3.3 If, following provision of all, or substantially all, of the Services, you elect not to continue engaging MLNZ and financial products are not arranged by MLNZ, then MLNZ will be entitled to invoice you for fees incurred in connection with the Services provided by MLNZ equal to an amount calculated by reference to the actual hours incurred by us in provision of the Services and our relevant hourly rates as applicable from time to time.

3.4 You agree to pay us the total amount shown on any invoice issued under this clause and in accordance with the payment terms nominated on the invoice, or as otherwise required by MLNZ without set off or deduction. All invoices are plus GST (if any).

3.5 Default interest at the rate of 15% per annum will be payable by you (calculated on a daily basis) on any amount outstanding from the due date to the date we receive payment.

3.6 MLNZ may in its sole discretion suspend provision of the Services until any payment owing has been made in full.

4. DEFAULT/TERMINATION

4.1 Without prejudice to either party's rights or remedies under the Terms or at law either party may immediately cancel the Terms and cease Services by giving the other party written notice.

4.2 Upon termination of the Terms, you must immediately pay all amounts owing to MLNZ.

5. CLIENT RESPONSIBILITIES

5.1 You agree to provide us with accurate and relevant information at all times. Any incomplete or inaccurate information provided by you will affect our ability to provide the Services and your ability to make informed decisions about any products you may be seeking.

6. CONFIDENTIALITY

6.1 Each party acknowledges that the other will, in the course of their relationship, be provided with information relating to the other party or its interests. Each party agrees to hold such information in strict confidence and shall only disclose such information to any third party with the other party's consent or where such disclosure is required by law.

7. LIABILITY

7.1 Where MLNZ breaches its obligations under these Terms, MLNZ is (subject to this clause 7) liable to you for reasonably foreseeable claims, damages, liabilities, losses or expenses caused directly by the breach. MLNZ shall not be liable to you, whether under contract, in tort or otherwise, for your indirect consequential or special loss or loss of profit, however arising, or to the extent that you contributed (or failed to mitigate) such loss.

7.2 Notwithstanding any other provision of these Terms, MLNZ's liability arising out of, or in connection with, these Terms or Services in respect of any claim whether under contract, tort (including negligence) or any other basis, shall not exceed the total amount paid by you to MLNZ or otherwise received by MLNZ in respect of the Services from the Product Providers in the six months prior to the event giving rise to the claim under Terms.

7.3 Without limiting any defences a party may have under the Limitation Act 2010, neither party shall be considered liable for any loss or damage resulting from any occurrence unless a claim is formally made on a party within six years from completion of the Services.

8. INDEMNITY

8.1 The Client irrevocably indemnifies MLNZ and will hold MLNZ harmless from and against all loss, costs, damages, expenses that (including all legal costs and expenses incurred on a solicitor/own client basis) MLNZ incurs and all claims, demands and other proceedings brought by any person, arising from the Client's failure to comply with these Terms or with any legislation, regulation or bylaw, or from any act, omission or negligence committed by the Client or by any of the Client's employees, agent, contractors or customers.

9. FORCE MAJEURE

9.1 Notwithstanding any other provision of these Terms, non-performance by MLNZ of any of its obligations under these Terms will be excused, without liability for non-performance, during the time and to the extent that such performance is prevented, wholly or substantially, by a Force Majeure Event.

10. SURVIVAL

10.1 Clauses 3, 4, 7, 8, 11 and all other clauses by which by their nature survive termination, shall survive termination.

11. GOVERNING LAW

11.1 These Terms are governed by New Zealand law and the parties submit to the exclusive jurisdiction of the New Zealand courts.

