

Thyme Technologies Limited Standard Terms & Conditions

As possible, according to the full limits of the current law:

- a) Thyme Technologies Ltd reserves the right to include any of its customer sites on Thyme Technologies Ltd user site reference list.
- b) Thyme Technologies Ltd and its employees shall not be liable for any incidental or consequential loss or damage arising from any cause whatsoever, including but not limited to loss, failure or damage to the operation of any system for any reason whatsoever whether due to any act, omission, accident or negligence on the part of Thyme Technologies Ltd or its employees.
- c) As per section 43 of the Consumer Guarantees Act 1993, units or services acquired for the purpose of a business shall not be covered by this Act.
- d) Thyme Technologies Ltd's liability does not include the cost of support in incidents where they have been caused by accident, natural disaster, act of god, faulty shipment, storage, neglect or misuse by any person, alterations to the software or configurations not authorized by Thyme Technologies Ltd or errors caused by untrained operators, failure of the customer to provide a suitable operating environment.
- e) Data corruption - this can be caused by a wide variety of external factors and as such - has no implied guarantee as to be recoverable, however Thyme Technologies Ltd will under all circumstances endeavour to recover and retrieve all data. Thyme Technologies Ltd will not be held liable for loss of data.
- f) Fault Resolution, where a software fault is raised by the client the fault must be replicable and fully documented before reporting to Thyme Technologies Limited. Thyme Technologies Limited will provide 1 hour free of charge to investigate and replicate faults on its own equipment. At the conclusion of this time, Thyme Technologies Limited will report back to the client and agree on an action plan and cost to rectify the fault.
- g) Thyme Technologies Ltd and the client agree to our standard terms of business as follows:
 - a. We promise
 - i. To treat your affairs with the strictest confidence
 - ii. That prior to the commencement of a particular assignment, both parties will agree on a suitable completion timetable
 - iii. To provide, where possible, an estimate of costs
 - b. We expect you:
 - i. To employ competent staff to take on the responsibility of implementing and running a computerised accounting system
 - ii. To pay amounts invoiced by Thyme Technologies Ltd in accordance with our payment terms which for this project will be : 50% of the software payable when the order is placed; 50% of the software payable on installation. Consulting is to be paid for on a time spent basis within 7 days of raising the invoice.
 - iii. To ask for a detailed account of our work within 7 days of the invoice, if you require a breakdown of any items on our invoices.
 - iv. To maintain a software, hardware and network configuration as required by software vendors
 - v. To advise Thyme Technologies Ltd of any proposed software, hardware and network changes To provide Thyme Technologies Ltd with remote access (access levels as agreed) in order to provide support and ensure smooth running of Thyme Technologies Ltd installed systems.
 - vi. Subsequent to the initial project involving the installation and training our normal terms are 30 days.
 - vii. Other Terms & conditions as below:

1 Terms of Appointment

The engagement letter and these terms ("the Agreement") contain our understanding of your requirements, and the terms of this agreement and conditions of our appointment to provide Software Consulting and business services to you. This Agreement records the services we will provide you. If you require any additional services, we must agree in writing to provide those services in a further letter of engagement (which will specify the scope of the further appointment).

2 Interpretation

In this Agreement, "we", "our", and "us" refer to Thyme Technologies Ltd and "you" and "your" refer to all those entities listed on the attached engagement letter.

3 Conflict of Interest

Unless otherwise notified, we are not presently aware of any conflict of interest, which would affect our ability to provide services to you. We will advise you if we become aware of any potential conflict of interest during the course of our engagement, and we will work with you to find a suitable solution.

4 Viruses on Client Disks and E-mail Attachments

If you provide us with a disk or e-mail attachments for use on our system and it contains a virus, you may be contacted by us and advised to remove the virus from your computer. Should we receive a second disk or email statement or emails from you with a virus, we may refuse to use your disks in the future.

Should any damage occur to our systems as result of using your virus-infected disk or email attachments, you agree to indemnify us for any damage or loss caused.

We strongly recommend that all clients use an up to date virus checker on their computers to avoid the transfer of viruses to other systems.

5 Reliance on Client Information

You agree to provide to us on a timely basis with all the information and documents we reasonably require to provide our services.

You warrant that the information provided by you or on your behalf will be accurate and complete and unless otherwise agreed in writing we will rely on that information without further independent verification. This includes the responsibility for any failure to supply us with information. If, after you have provided us with information, you become aware that such information has become untrue, unfair or misleading, then you must promptly notify us. We will report to you if we believe that information provided to us by you or on your behalf is not reliable or accurate.

6 Client Documents

If we are provided with custody of any documents belonging to you, including share registers or constitution documents, those documents will be retained during the term of our appointment (unless their earlier return is requested), at the end of which they will be returned to you unless separate arrangements have been made. We shall be entitled to retain copies to meet any legal obligations unless otherwise agreed.

7 Access to Our Working Documents

Where reasonably possible we will:

- (a) inform you if any other person seeks access to the documents we produce in the course of our project work for you; and
- (b) Seek your consent before granting access to any person unless, we are compelled to do otherwise at law.

In certain circumstances, statutory authorities, such as the Inland Revenue Department, may request access to information and documentation and we may not be legally able to prevent such access.

8 Benefit of Services

Unless we agree in writing, our advice and services are provided solely for your benefit and no advice or other information provided to you is to be passed on or made available to be used or relied upon by any third party. We will have no liability to any such third party and you will indemnify us against any claim arising from a third party relying on our advice or information.

9 Confidentiality

We will maintain utmost confidentiality as far as your business and personal affairs are concerned. We will not disclose any confidential information you supply to us to third parties unless the disclosure is authorised by you or required by law. In the absence of specific written instructions from you, copies of your financial statements will be provided only to yourself and the Inland Revenue Department and to any other person as we are required by law to disclose to.

You will not disclose to third parties any confidential information relating to us or our processes, ideas, concepts or techniques; unless you are required to do so by law. You acknowledge that our processes, concepts and techniques are our property and are also confidential information.

The obligations of confidence set out in this clause will continue after termination of our engagement.

10 Limitation of Liability

We shall use reasonable skill and care in the provision of the services set out in this letter. To the maximum extent permitted by law, the amount of our liability to you for costs, damage, loss or expense arising from the services provided by us to you (whether in contract, tort (including negligence) or otherwise arising from the relationship of the parties) will be limited to the amount of direct damage, loss, expense or costs actually suffered by you as a result of the event that gave rise to the liability and the maximum amount of such liability will not exceed five times the fee paid for the particular service giving rise to the claim. For the purposes of this clause, direct losses or damages excludes:

- Any losses or damages arising from delay, increase in operating costs, loss of profit, use, production, income, business, data, contract or goodwill of any person;
- Any indirect or consequential loss; and
- Any loss resulting from liability to any third party.

We have also agreed with you that this limitation of liability extends to both the engagement contained in this Agreement and any variation or addition to it, and to claims arising from breach of contract, negligence or in any other way.

11 Indemnities

You indemnify us, our partners and employees against:

- (a) any loss suffered or liability incurred by us, our partners and employees in connection with any breach of, or default under this Agreement by you;
- (b) any loss suffered or liability incurred by us, our partners and employees out of, or in consequence of, any infringement or alleged infringement of any intellectual property in any documents supplied to us; and costs or expenses, including legal costs (on a solicitor and own client basis), us, our partners and employees may incur in respect of such loss or liability. The indemnities referred to above will be enforceable by us, our partners and employees whether or not legal proceedings are instituted and, if legal proceedings are instituted, irrespective of the means of any settlement, compromise or determination.

This clause is intended to be for the benefit of, and enforceable against you by Thyme Technologies, our partners and employees for the purposes of the Contracts (Privity) Act 1982. Despite this clause, this document may be varied by written agreement between you and us.

12 Applicable Law and governing jurisdiction

Our performance of the services will be governed by, and construed in accordance with the laws of New Zealand. The courts of New Zealand will have exclusive jurisdiction to settle any claim, difference or dispute, including, without limitation, claims for set-off or claims that may arise out of, or in connection with, this Agreement.

13 Our Employees

From time to time, our employees may work from your premises. You agree to comply with all statutes, bylaws, codes of practice and legal requirements which it is ordinarily required in respect of your own staff.

You acknowledge our employees are an integral part of our business. Accordingly, you agree that you will not offer or induce any of our employees to end their employment with us without the prior written permission of a Thyme Technologies' Director. You also agree not to procure or assist anyone else to do this.

In addition to breaching this Agreement, you acknowledge that if you offer or induce any of our employees to end their employment with us you may be assisting or procuring a breach of a restraint of trade agreement between Thyme Technologies and the employee.

If you directly employ any of our employees within a period of twelve months after completing an assignment at your premises, you agree to pay an introduction fee of 100% of the staff member's annual gross salary as paid by us immediately prior to their termination of employment inclusive of any benefits (plus GST). You acknowledge that this is a genuine pre-estimate of our loss.

14 Health and Safety

We are required to Comply with the provisions of the Health and Safety in Employment Act 1992 (the "Act") by taking all practical steps to ensure the health and safety of our people. Our policy expects people to take responsibility to ensure their own safety and that no harm is caused to others in the workplace. However, the Act, and the Regulations and Code made under it, place responsibility for their health and safety on you when they are visitors to your site. It may be appropriate for your Health and Safety representative to hold a safety briefing at the beginning

of the assignment for those involved, regarding the hazards, provision of any appropriate equipment, awareness of accident reporting procedures and emergency procedures.

15 Termination of Agreement

This Agreement may be terminated by either party giving written notice to the other. Termination will not affect any accrued rights of a party including your obligation to pay our fees for all services performed to the date of the notice of termination. Any of the terms and conditions of this Agreement, which are intended to apply after termination, will continue to apply.

16 Entirety of Terms of Engagement

This Agreement:

- (a) constitutes the entire understanding and agreement of the parties relating to the matters dealt within it;
- (b) supersedes and extinguishes all prior agreements, statements, representations and understandings whether verbal or written between us relating to the matters dealt with in this engagement letter; and may be varied at any time by mutual agreement in writing. **Entirety of Terms of Engagement**

17 Ownership of Documentation

It is agreed that the ownership of all documents supplied by you to assist in the performance of professional services shall remain your property. It is also agreed that all final end product documents produced by us and provided to you in the performance of these professional services shall be your property. For the avoidance of doubt, it is agreed that we retain ownership of all workpapers and drafts created in the course of performing professional services for you, which are not or do not form an integral part of the end product of that work.

18 Right to Claim a General Lien over Data Books and Records

It is agreed that we will be entitled to exercise a general lien over all the books, records, related documents and other such chattels that may come into our possession for the purpose of performing professional services for you until all our costs and charges for professional services of any nature to you have been fully paid.

19 GST

If goods and services tax (GST) is payable by us in relation to any supply made by us to you, you agree to pay to us that GST amount in addition to our fees and disbursements. We will provide you with a valid tax invoice where GST is payable by you to us.

20 Assignment

You may not assign the benefit of this Agreement or the performance of the services to any third party without our prior written consent.

21 Events beyond our control

We are not liable to you for any failure, or delay in performing the services if the failure or delay arose from a cause beyond our reasonable control.

23 Modification and severability

- (a) If a court holds that any provision of this Agreement or its duration is unenforceable, illegal restraint, or invalid but any such provision would be enforceable if it was modified or limited, then that provision shall be so modified or limited to the extent necessary.
- (b) Each provision of this document is individually severable. If any provision is or becomes illegal, unenforceable or invalid, it is to be treated as being severed from this document, but the rest of this document will not be affected.