Martelli McKegg
lawyers

Terms of Engagement (Terms)
委托条款（条款）

We appreciate and thank you for your instructions to act on your behalf. We look forward to being of service and to working with you.
我们感谢您的委托让我们代表您。我们期待为您服务和工作。

These Terms apply in respect of all work carried out by us for you, except to the extent that we otherwise agree with you in writing. We are entitled to change these Terms in relation to any future engagement and if we do so we will send you a copy of any new Terms. You are not required to sign these Terms and we will take your instructions as your acceptance of these Terms or any new Terms (as the case may be).
这些条款适用于所有我们为您做的业务，若有其它安排，我们会另行书面通知您。对任何进一步的委托，我们有权修改这些条款，如果我们这么做，我们会向您发送任何新条款的副本。您不需要签署这些条款，我们对您进一步委托的接受，将视为您认可这些条款或新条款（视情况而定）。

1. **Services**
服务

1.1 The particular legal services we will provide for you are outlined in our letter of engagement.
我们提供给您具体的法律服务，它已列于我们的《委托条款》中。

1.2 We are committed to delivering a service that is consistent and prompt and which includes:
我们致力于始终如一的和及时的服务，包括：

- Having Partners available to you.
  合伙人们会随时为您服务
- Helping you achieve your objectives.
  帮助您实现您的目标
- Communicating well.
  良好的沟通
- Giving pragmatic commercial advice.
  提供务实的商务建议
- Responding quickly.
  及时的回复
- Understanding your business or affairs.
  理解您的生意和事宜
- Having excellent legal skills.
  具备出色的法律技能

1.3 You can help us by:
您能帮助我们：

- Giving clear instructions.
  给予明确的指示
- Discussing any time constraints.
  讨论任何时间的限制
- Telling us if we are not meeting your expectations.
  告诉我们如果我们没有达到您的期望
- Providing information to us quickly.
  及时提供我们所需要的信息
- Asking if you are uncertain of anything.
  询问如果您有任何不确定的事宜

1.4 We will:
我们会：

- Confirm your initial instructions in our letter of engagement.
  确认我们委托书中的初始委托。
- Tell you the name and status of the person or persons who will be carrying out the work.
  告诉您谁将为您开展工作，此人的姓名及职位。
- Provide you with an *Information for Clients* form detailing your rights.
  提供一份《告之客户信息表》，其中详细说明了您的权利。

1.5 We do not carry out valuations of property or businesses, and, whilst we will advise you in relation to acquiring a property or business, we are not responsible for determining whether the property or business meets your needs or investment profile. We recommend that you consult a suitably qualified professional such as a Registered Valuer, Financial Adviser and/or Accountant in relation to these issues.
我们不做对房产和生意的估值，且，虽然我们会在购买房产和生意上为您提供建议，但并不负责确该保房产和生意符合您的需求和投资概况。我们建议您到合格的专业人士处咨询这些问题，如注册评估师、金融顾问和/或会计。

1.6 We do not provide investment advice in respect to financial products, accounting or tax advice. We recommend you obtain appropriate advice from a suitably qualified Financial Adviser and/or Accountant in relation to financial products, accounting and tax matters.

我们不针对金融产品、会计，或税收提供投资建议。我们建议您从相关合适且合格的金融顾问及/或会计处获得适当的建议。

1.7 Unless otherwise agreed in writing, we only provide advice in relation to New Zealand law and if we provide advice in respect of matters governed by foreign law, we do so as a guide only on the basis that we do not accept any responsibility or liability for the advice given and you should seek formal advice from an appropriately qualified lawyer in the relevant jurisdiction. If you wish, we can refer you to another Meritas member for advice in respect of matters governed by foreign law.
除非另行书面约定，否则我们只提供与新西兰法律相关的建议，如果我们就外国法律管辖事项提出建议，我们仅在我们不承担任何责任或义务的基础上给予指导意见，且您应该向相关司法管辖区的合格的律师寻求正式的建议。如果您愿意，我们可以将您推荐到另一个 Meritas（全球律所联盟）的会员处，让其就外国法律管辖事宜为您提供建议。

2. **Meritas – Our International Links**
Meritas- 我们的国际网络

Martelli McKegg is a member of Meritas, a network of nearly 200 independent commercial law firms, located in major cities throughout the world. While Meritas members are not engaged in the joint practice of law and do not share fees among themselves, membership in Meritas gives us, and our clients, important access to competent, legal resources in other jurisdictions and specialty areas of practice so that our clients' needs for legal services can be handled efficiently virtually anywhere. Further information about Meritas can be obtained at the organisation's web site: *www.meritas.org*.
马特利.麦凯律师事务所是 Meritas（全球律所联盟）的会员，Meritas 的网络有近 200 家的独立的商业律师事务所，遍布全球主要城市。虽然 Meritas 的成员间并不合作法律项目、也不在彼此间共享费用，但 Meritas 的会员资格却能，提供给我们和我们的客户，获得其他法律管辖区和专业实践领域更有竞争力的法律资源的机会，无论客户对法律业务的需求在何处，都能被高效的完成。关于 Meritas 的更多信息可于该组织的网站上获得：www.meritas.org

3. **Information and Documents**
信息与文件

3.1 You must provide us with all information and documents and complete and sign any certificates required by us or our bankers to enable us to comply with our obligations under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (**AML**), United States Foreign Account Tax Compliance Act (**FATCA**), OECD Common Reporting Standard (**CRS**) and other similar laws (**AML/CFT Legislation**). You authorise us to collect information about you as we may consider appropriate and to verify information (using services from a third party) in order to meet our obligations under the AML/CFT Legislation. We may be required to carry out this due diligence prior to carrying out your instructions. You authorise any person to disclose information to us in relation to such queries.
您必须向我们提供所有的信息和文件、和填写并签署任何我们或我们的银行要求的证明，以使我们能遵守《2009 年的反洗钱和反恐融资法》(AML),《美国外国账户税务合规法》(FATCA),《经和组织共同报告准则》(CRS)和其它类似法律（反洗钱/打击恐怖融资法 AML/CFT）。您授权我们收集我们认为合适的您的相关信息，并（使用来自第三方的服务）来验证信息以履行我们在《反洗钱/打击恐怖主义融资法》（AML/CFT）下的义务。在执行您的委托之前，我们可能会被要求执行此尽职调查。您授权任何人向我们披露与此类查询有关的信息。

3.2 You must also provide all information and complete and sign any documents required to comply, and enable us to comply, with statutory requirements including without limitation the requirements of the Overseas Investment Act 2005 and Overseas Investment Amendment Act 2018, the Land Transfer Act 2017, the Income Tax Act 2007 and the Tax Administration Act 1994.
您还必须提供所有信息，并填写和签署任何所要求遵守的文件，使我们能够遵守包括但不限于以下法律：《2005 年海外投资法》、《2018 年海外投资法修正法案》、《2017 年土地转让法》、《2007 年所得税法》和《1994 年税收管理法》。

3.3 If you are selling a residential property and we consider that you are an offshore person for the purposes of the Income Tax Act 2007, you accept that we may be obliged to calculate and deduct from the sale proceeds Resident Land Withholding Tax (**RLWT**) and account to the Inland Revenue for the amount of the RLWT deducted.
如果您出售住宅物业，且我们认为您是《2007 年所得税法》中的'离岸人士'，您要接受我们可能有义务从销售收入中计算和扣除居民土地预扣税（RLWT），并将扣除的居民土地预扣税（RLWT）的金额汇到税务局的账户。

3.4 You consent to us disclosing or reporting financial and other information about you and your transactions to those entities we are required to disclose or report to in order to comply with our legal obligations.

您同意向我们披露或汇报关于您和您的交易的财务信息和其他信息，给那些要求我们这样做的机构，以此来遵守我们的法律义务。

4. **Financial Matters**
财务问题

4.1 **Fees**:
费用：

4.1.1 The fees that we will charge or the manner in which they will be arrived at are set out in our letter of engagement. Our fees are calculated by reference to guidelines laid down by the New Zealand Law Society. We are entitled to take account of such matters as:
我们将收取的费用 、及如何收取费用记载于我们的委托书中。我们的计费标准是根据新西兰法律协会的方针制定的。我们有权考虑以下事项：

- The time spent.
  所耗费的时间
- The skill, knowledge and responsibility required.
  所需的技能、知识、责任
- The value of the property involved.
  所涉及的财产价值
- The complexity, novelty, importance and urgency of the matter.
  涉及事件的复杂性、新颖度、重要性和紧急性
- The reasonable costs of running a law practice.
  运作一个律师事务所所需的合理开支
- The result.
  事件的结果

The relative importance of these factors will vary according to the particular circumstances.
这些因素的相对重要性，将根据具体情况而有所不同。

4.1.2 If our letter of engagement includes an estimate of our fees and expenses, we will advise you as soon as reasonably practicable if it appears likely that our fees or expenses are going to exceed that estimate. Unless specifically agreed by us in writing any estimate does not amount to a quote and our fees and expenses may exceed that estimate.
在我们的委托书中包括了我们的估算费用，如果我们的费用可能要超出估算费用，我们会在合理可行的时间内尽快通知您。除非我们特别书面同意说明，否则我们的费用及开支的估算金额并不等同于我们的最终报价，我们的费用及开支很可能超出估算的报价。

4.1.3 If our letter of engagement specifies a fixed fee we will charge this for the agreed scope of our services. We will advise you as soon as reasonably practicable if it becomes necessary for us to provide services outside the agreed scope and if requested give you an estimate of the likely amount of the further fees.
在我们的委托书中，我们列出了一个固定的费用，此费用会于双方共同约定的服务范围内收取。我们会在合理可行的时间内尽快通知您，如果按照您的要求，我们要提供合同范围外的服务，我们会给您一个额外费用的估价。

4.1.4 If our letter of engagement states that our fees are calculated on an hourly basis only, the hourly rates will be set out in our engagement letter. The differences in those rates will reflect the experience and specialisation of our professional staff, and from time to time they may be increased to reflect increases in cost and/or expertise. Time spent is recorded in six minute units with time rounded up to the next unit of six minutes.
如果我们的委托书中声明我们的费用是仅按小时来计算的，小时费率会列于我们的委托书中。这些小时费率将根据我们的专业人士的经验和专业程度的不同而异，也会时不时向上调整以反映成本极其经验的增长。时间记录以每 6 分钟为 1 个时间单位，随时间进行四舍五入至 6 分钟到下一个时间单位。

4.2 **Disbursements and expenses:** In providing our services to you we may incur disbursements on your behalf such as land registration fees, valuation fees, court filing fees, AML compliance fees or other expenses payable to third parties. We will generally ask you to make advance payments to us to cover these disbursements and expenses. Office expenses will be calculated by reference to a scale of charges based on, or a percentage of, the amount of our professional charges and charged in addition to our professional charges.
支出与费用：在向您提供服务过程中，可能会产生在您名下的费用，诸如：土地登记费、评估费、诉讼申请费，反洗钱合规费或支付给第三方的费用。我们通常会要求您作出预付款以覆盖这些支出和费用。办公费用将于我们的专业收费外另行收取，办公费用将按我们的专业费用的规模，或按专业费用的一定的百分比来计算。

4.3 **Sundry Fee**: In addition to charging disbursements and expenses we will also charge you a sundry fee on every invoice to cover our internal costs (such as tolls, telephone charges, printing and photocopying charges).

杂费：除了向您收取报销项及支出费用之外，我们还将在每一张发票上向您收取杂费，用来覆盖我们的内部费用（比如路税，电话费，打印复印费用等）。

4.4 **Services of Other Consultants:** Where it is necessary for us to engage the services of other consultants on your behalf to provide specialist advice or services, including advocacy services, we will discuss the terms of any consultant's engagement with you. In general we will require payment of any consultant's fees prior to our instructing them.
其他顾问的咨询服务：在必要的情况下，我们将代表您获取一些专业的咨询和服务，包括辩护服务，我们将提前与您讨论此类专业服务的委托条款。通常在我们委托他们之前，我们需要您提前支付相应的咨询费用。

4.5 **GST (if any):** All amounts exclude GST and GST (if any) shall be payable by you in addition to our fees and expenses.
商品与服务税（如果有）：所有的费用都不包含商品与服务税，您需要支付我方费用与开支产生的商品与服务税。

4.6 **Invoices**: For ongoing matters we will send interim invoices to you (usually monthly) and a final invoice on completion of the matter or on termination of our engagement. We may also send you an invoice when we incur any significant third party expenses on your behalf. Where a transaction will be completed within a short time we will send you an account prior to or on completion of that transaction.
发票：对于正在进行的项目，我们会寄给您临时发票（通常为每月）。在项目完成后或在我们终止委托服务时，我们会寄给您最终发票。如果有任何显著的第三方费用产生，我们也许会寄给您发票。如果一个项目于短期内完成，我们会提前在交易完成后向您出具账目。

4.7 **Payment**: Other than for property related transactions where payment is generally required on settlement, we require payment of all accounts upon receipt of our invoice. We may require interest to be paid on any amount that is more than seven days overdue. Interest will be calculated at 15% per annum. Where debt collection action of any kind (including litigation action) is taken to recover or attempt to recover unpaid fees and disbursements from you, then the out-of-pocket cost of such recovery may be added to the amount due by you and additionally, to recompense us for the time and trouble representing ourselves in such action and to reflect the lost opportunity of using that time doing professional work for other clients and being remunerated accordingly, we may at our discretion add to the amount due by you liquidated damages calculated by the time recorded in relation to the collection action charged at our current solicitor fee rates. We may deduct any fees, expenses or disbursements for which we have provided an invoice from any funds held in our trust account on your behalf. All accounts must be paid without deduction of any kind (including cross claim) or equitable or legal set-off.
付款：除了地产相关的交易（一般要求在交割日付款），我们要求您按发票金额付全款。欠款逾期超过 7 天，我们会在欠款上附加利息，利息将以年化 15%计算。如果有为向您追回（或试图追回）逾期款和损失的追债行动（包括诉讼行动），则此类追债行动所产生的自付费可能会被加到您的应付金额上，此外，为了补偿我们在此类行动上因代理自己所花的时间和所经历的困难，我们原本可以利用那段时间为其他客户做专业的工作并获得相应的报酬，我们可以自行决定将此金额加到您的应付金额上。误期赔偿费记录了追债行动所花的时间，将以我们律师的小时费率来收取。我们也许会从信托账户内代表您收取的款项中扣除发票中列明的任何开销、费用或支出。所有的账目必须被全额支付，不能有任何形式的扣除（包括交叉诉讼）或合理合法的抵消。

4.8 **Security**: We may ask you to pay an amount into our trust account or to provide other security for our fees and other expenses. By accepting these Terms you authorise us to draw on that money to pay our fees and other expenses as they become due.
担保：我们也许要求您支付一定金额到我们的信托账户，或提供其它能支付我们费用和支出的担保。接受这些条款，说明您授权我们支取这些资金以支付到期的费用和支出。

4.9 **Third Parties**: It is possible that a court or tribunal may make an order that you pay another party's costs and expenses. Payment of those costs is additional. It does not alter your liability to pay any costs and expenses payable to us. If your costs are due to be reimbursed by a third party (e.g. the costs of preparing a lease) you will remain responsible for payment to us if that third party fails to pay those costs.
第三方：法院和法庭可能裁定让您支付第三方费用和支出，这是额外费用。它不会改变您要支付任何费用和开支给我们。如果您方费用是由第三方偿还（如：准备租赁的费用），如果第三方不能支付，您还是有责任支付我们。

4.10 **Trust Account:** We maintain a trust account for all funds which we receive from or on behalf of clients (except monies received for payment of our invoices).
信托账户：我们的信托账户是用于接受客户存入的资金，或我们的代客户收取的资金（不包括应收款项，该款项是支付我们的发票上的金额的）。

4.11 **Interest Bearing Deposits:** If you wish or expect us to place funds which we hold in our trust account on your behalf on interest bearing deposit, you must first complete, sign and return a self-certification form or forms to us to enable us to comply with our FATCA/CRS obligations. If we are holding significant funds on your behalf and we hold a completed and executed self-certification form or forms we will normally lodge those funds on interest bearing deposit with a bank. In that case we will charge an administration fee of 5% of the interest derived. You will also need to supply us with your IRD number and marginal tax rate so we can ensure that we can deduct resident withholding tax at the correct rate.
有息存款：如果您希望（或期望）我们把我们在信托账户中代您存储的资金用有息存款的形式储蓄，您必须首先完成、签署和返回自我认证表格（一份或多份）给我们，以使我们能符合我们在《美国外国账户税务合规法》(FATCA) /《经和组织共同报告准则》(CRS)的义务。如果我们代您持有大量的资金，且我们持有完成的、和已执行的自我认证表格（一份或多份），我们一般会要求银行对资金提供有息存款。在这种情况下，我们会收取所得利息的 5%作为管理费。您还需提供给我们您的新西兰税号和您的边际税率，以便我们能正确的扣除公民预提税。

5. **Your Satisfaction**
Your satisfaction is very important to us. We have a procedure for dealing with any matters of concern. Further detail is contained in our *Information for Clients* form.
您的满意度: 我们重视客户满意度。我们有处理事项的章程，更多细节列于我们的《告知客户信息表》中。

6. **Termination**
You may terminate your instructions to us upon giving us reasonable notice in writing. We may terminate our retainer in certain circumstances including where you cannot or will not provide instructions to us or where you do not pay our fees and expenses when due. If you do not pay our fees we may cease carrying out any further work for you. In the event of termination by you or us, you must pay our fees and expenses up to the date of termination.
终止合作：您可以用书面形式合理的通知我们您要终止指示。在某些情况下我们会终止您在我们账户中的预付款，包括您不能或不愿意给我们指示，或您没有支付到期费用给我们。如果您不支付我们的费用，我们可能会停止为您做任何更多的工作。如果因为您或因为我们而终止了工作，您都必须支付费用和开支给我们到服务期结束。

7. **Retention of Files and Documents**
文档和文件的保留
We will retain our files and all documents in electronic form only unless otherwise instructed by you in writing. While we will endeavour to retain electronic copies for seven years we cannot guarantee that they will always be available or readable. If you give us an original paper document, or we receive one on your behalf, you authorise us to destroy it after making an electronic copy of that document. This does not apply to documents that we have agreed in writing to hold in safe custody for you. Where you hold original documents or have copies of documents we suggest you keep these in a safe place. This is particularly important for trust matters where actions and decisions may need to be reviewed many years after those actions or decisions were taken and documentation must be kept for as long as the trust exists. For business transactions it is often a requirement of IRD that a file be retained for between seven and ten years. In all cases, we will be entitled to retain possession of your file and documents while there is money owing to us for our fees and expenses.
除非您另有书面指示，否则我们将仅以电子形式保留我们的文件和所有文件。虽然我们会努力将电子副本保留七年，但我们无法保证它们始终有可用性和可读性。如果您给了我们一份原始纸质文档，或者我们代表您收到一份纸质文档，您授权我们制作该文档的电子副本后销毁纸质文档。这不适用于我们已经书面同意为您妥善保管的文件。如果您持有原始文件或有文件的副本，我们建议您将这些文件保存在安全的地方。这对于信托类案件尤其重要，因为多年后也许需要回顾一些过往的行动和决定。所以只要是信托文件，必须妥善保存到信托失效。税务局要求商业交易文档必须保存 7 到 10 年。如果您拖欠我们的费用和支出，我们有权保存您的文档和文件。

8. **Liability**
责任

8.1 **Exclusion:** You acknowledge that where you are in trade the provisions of the Consumer Guarantees Act 1993 (CGA) shall not apply and that sections 9, 12A and 13 of the Fair Trading Act 1986 (FTA) shall not apply for the purposes of section 5D of the FTA. Where you are not in trade, nothing in these Terms is intended to limit your rights under the CGA or the FTA.
排除：您承认，如果您做生意，《1993 年的消费者保障法》(CGA)中的条款将不适用，出于《1986 年公平交易法》中第 5D 部分的目的，《1986 年的公平交易法》(FTA)中的第 9 部分, 12A 和 13 将不适用。如果您不做生意，这些条款中的任何内容都不旨在限制您在 GGA 和 FTA 下的权利。

8.2 **Limitation of Liability:** Unless otherwise agreed in writing, and to the extent permitted by law, our total liability to you in relation to any matter or series of related matters for which you engage us will not exceed the greater of:
责任限制：除非另有书面约定，并且是在法律允许的范围内，否则我们对您关于任何事宜或一系列相关事项的总责任不超过以下范围：

8.2.1 The amount available to be paid out under any relevant insurance held by us up to a maximum of NZ$20,000,000; and
根据我们所持有的相关保险，可以支付的款项最高不超过$20,000,000 新西兰元； 和

8.2.2 Where no amount is available to be paid out under any relevant insurance held by us, the amount equal to five times our paid professional charges relating to the matter or series of related matters to which the claim relates up to a maximum of NZ$1,000,000.
如果我们根据我们持有的相关保险没有可支付的金额，则金额相当于五倍的我们就相关事项或一系列相关事宜的专业收费，该索赔最多可达$1,000,000 新西兰元。

8.3 **Time Limit for Claims**: For the purposes of any claim against us, as defined by the Limitation Act 2010, whether in contract, tort, equity or otherwise, arising out of our engagement, the Act shall be modified so that any claim must be filed within 12 months after the date of the act or omission on which the claim is based. Further, the "late knowledge" provisions in sections 11(2), 11(3), 14 and 32(2) shall not apply. The 12 month time period applies whether or not loss or damage has become apparent, or has been suffered, within that time period.
诉讼期条款：对于向我方发起的任何索赔要求，按《2010 年追诉期限法》规定的，因为我们的服务引起的，无论是在合同、侵权、股权或其他方式索赔要求，都要对该法进行修改，即：任何索赔要求必须在相关行为或疏忽发生后的 12 个月内，且，法案中的第 11(2), 11(3), 14 和 32(2)所提及的"过期察觉"将不适用于此种情况。不论损失或损害是否已变得明显，或在此期间内是否已遭受此种损失或损害，都适用于 12 个月的时间期限。

9. **Electronic Communications**
电子通讯

9.1 Where we provide any electronic service to you or communicate with you by electronic means, we will take all reasonable precautions to ensure that those services and communications are accurate, reliable, adequate, complete, confidential and secure but cannot warrant or guarantee that this is the case. We do not accept responsibility and will not be liable for any loss or damage caused in connection with, or as a consequence of, the corruption of an electronic service or communication.
如果我们向您提供任何电子通讯服务，用电子方式与您交流意味着，我们将作一切合理的预防措施，以确保这些服务和通信的准确性、可靠性、充分性、完整性、保密性和安全性，但不能对此作保证或担保。我们不承担任何与电子服务或通信损坏有关的，或由于电子损坏而导致的任何损失或损害的责任。

9.2 We are entitled to rely upon the authenticity of electronic communications ostensibly received from you.
我们有权依赖表面上从您处收到的电子通讯的真实性。

10. **Artificial Intelligence**
人工智能

10.1 **Use of AI:** We may use artificial intelligence (AI) and tools which incorporate AI (AI Tools) in providing our services to you unless you instruct us not to do so.
使用人工智能：我们给您提供服务时，可能会使用人工智能（AI）及嵌入人工智能的工具（AI 工具），除非您特别指示我们不可以使用 AI.

10.2 **TrialView:** Where we propose to use the litigation AI Tool, TrialView we will ask you to sign an addendum to our letter of engagement setting out the terms on which we will do so.
TrialView: 如果我们计划使用 AI 工具 TrialView，我们会让您签署一份附在我们委托书后面的附件，该附件会详细列出我们使用这一 AI 工具的条款和条件。

10.3 **Your Information:** When using AI Tools we will use reasonable endeavours to ensure that any information pertaining to you or your affairs is appropriately safeguarded and only used for the purposes for which it was intended.
您的信息：当使用 AI 工具时，我们会尽可能保证适当的保护与您及您委托的事件相关的信息，并仅在预定用途范围内使用这些信息。

10.4 **Output from Use of AI Tools:** Outputs generated from the use of AI Tools will be reviewed by our professional staff.

使用 AI 工具产生的输出：使用 AI 工具生成的内容，将由我们的专业人员进行审核。

11. **Governing Law**
These Terms are governed by New Zealand law and are subject to the exclusive jurisdiction of the New Zealand courts.
适用法律：这些条款受新西兰法律管辖，并新西兰法院有专属管辖权。

12. **Conflict**
In the event that there is a conflict between the meaning and /or interpretation of the English version and the Chinese Version of these terms of engagement, then the English version shall apply in all respects.
冲突：在中英文版本的的《委托条款》的含义/解释有冲突时，以英文版本为准。