



PC

CC

Budget Centre

**Client**

**Project Title**

**Start Date**

**Finish Date**

The Client engages Massey to provide the services described below and Massey agrees to perform the services described in terms of this Agreement. Both parties agree to be bound by the *Conditions of Engagement*. This Agreement, once signed, together with any attachments referred to below, will replace all written or oral agreements previously reached between the parties in relation to the subject matter hereof.

Screen Tip: Hover your cursor over any field to reveal tool tips that are provided to assist you in preparing this contract; for further advice on preparing this contract and contractual issues, contact our Contracts Team via [research.massey.ac.nz](http://research.massey.ac.nz)

### Project Scope

### Timetable & Milestones

### Payment Schedule

For advice on project accounts and preparing budgets, contact our Business Services Team

Value \$

*All amounts payable in New Zealand Dollars **plus GST***

SCON Account

Analysis Code

A SCON account may be nominated for projects with a value of ≤ \$5,000

### Notices

Massey - Contract Administration

Contracts Team  
Research Management Services  
Massey University  
Private Bag 11 222, Palmerston North 4442  
Courtyard Complex, Tennent Drive, RD4, Palmerston North 4474

Client - Contract Administration & Invoices

### Massey Project Leader Acknowledgement

Signature

Name

Date

### Massey Authorised Signatory

Signature

Name

Title

Date

### Attachments

### Client Authorised Signatory

Signature

Name

Title

Date

## Conditions of Engagement - Research & Consultancy

### 1 General

Massey has the knowledge and the ability reasonably required to undertake the Project. In providing the services, Massey will exercise the degree of skill, care and diligence normally expected of a competent professional organisation.

The Client agrees that it is acquiring the services under this agreement for the purposes of a business and that the provisions of the Consumer Guarantees Act 1993 are excluded in relation to those services. Massey has advised the Client fully of any conflict of interest of which it is aware regarding this project as at the date of this agreement and the Client confirms that it has consented to this agreement proceeding in full knowledge of such conflict (if any).

Massey will use its reasonable endeavours to avoid any new conflict of interest regarding this project during the term of this agreement ("**New Conflict**"). If a New Conflict occurs, Massey will advise the Client as soon as practicable. If the Client does not consent fully to this agreement continuing in view of such New Conflict within a reasonable time of its notification then this agreement may be terminated by either party under clause 14.

### 2 Funding Arrangements

The Client will pay Massey the fees and expenses specified in the agreement on the 20th of the month following receipt of invoice. Overdue payments will be subject to 10% interest per annum.

The Client acknowledges that the fees and expenses stated within the Payment Schedule are a best estimate of the costs involved and no warranty or assurance is given that the Project will be completed for that amount. Massey will not exceed amounts stated within the Payment Schedule without written approval of the Client.

### 3 Variation

The agreement and conditions may be varied only by mutual, written agreement between the Parties and signed by the authorised representatives of the Parties.

### 4 Notices

Any notices pursuant to this agreement, shall be given in writing and delivered to the Parties at the addresses provided as contacts for notices for each party.

### 5 Acknowledgement of Risk

The Client acknowledges the inherent risk involved in the project undertaken and that Massey cannot guarantee, nor is any warranty given, that any particular result will be achievable. The Client understands and agrees that the services provided may include advice and recommendations, but all decisions in connection with the implementation of such advice and recommendations shall be the responsibility of, and made by, the Client.

### 6 Confidentiality

If no other confidentiality agreement is attached, or is in effect, then the Parties agree with each other (as separate covenants) that they will each keep entirely secret and confidential the terms of this agreement and all information of a secret, confidential or proprietary nature concerning the business or affairs of the other of them which may come into their knowledge or possession as a result of performance under this agreement. Each party further undertakes that it will restrict access to the terms of this agreement or other such information to their employees or agents on a strictly "need to know" basis and will not make use, or seek to make use, of the existence of the terms of this agreement, or other such information, except for the purposes of this agreement.

### 7 Liability

Except where expressly stated otherwise, Massey disclaims all warranties, either express or implied, including, without limitation, warranties of merchantability and fitness for a particular purpose.

The Client agrees that Massey, its employees, agents and contractors, shall not be liable to the Client for any actions, damage, claims, liabilities, costs, expenses, or losses in any way arising out of or relating to the services performed under this agreement, for an aggregate amount in excess of two times the fees paid by the Client to Massey under this agreement.

In no event shall Massey, its employees, agents or contractors be liable for consequential, special, indirect, incidental, punitive or exemplary damages, costs, expenses, or losses (including, without limitation, lost profits and opportunity costs).

The provisions of this clause and clause 5 shall apply regardless of the form of action, damage, claim, liability, cost, expense, or loss, whether in contract, statute, tort (including, without limitation, negligence), or otherwise.

### 8 Specific Consent Requirements

Massey is responsible for all consents required (including without limitation, statutory and ethical consents) to implement this agreement.

### 9 Intellectual Property

All intellectual property which is owned by or licensed to a party at the date of this agreement shall remain owned by or licensed to that party exclusively.

Any new intellectual property which is created as a result of, or in connection with, the provision of the services under this agreement ("**Project IP**"), is to be owned by the Client. The Client shall make the Project IP available to Massey for use in accordance with such reasonable conditions as the Client may place upon Massey.

Irrespective of ownership but subject to the confidentiality and publication provisions of this agreement, Massey shall further retain the right to use the Project IP for research and educational purposes.

### 10 Publication

Any disclosure of information related to this project in which a party has a proprietary interest must be approved by that party. Copies of the proposed disclosure will be given to the party from whom approval is sought not later than 30 days in advance of the proposed disclosure date and a written response must be received within a further 14 days. If no objection in writing is received to such disclosure within that time period, the party proposing to disclose shall be free to proceed. (Approval to publish will not be unreasonably withheld). There will be no constraints applied to examination of theses; if necessary, publication of a thesis may be subject to an embargo for an agreed period of time not exceeding two years.

### 11 Publicity

All publicity related to this project must be approved by the Parties.

Neither Party will use the name of the other Party in relation to this project or in any endorsement without written permission from the other Party.

### 12 Health and Safety in Employment Act 1992 ('Act')

Massey will not assume any obligations as the Client's agent which may be imposed upon the Client pursuant to the Act and arising out of this engagement.

### 13 Force Majeure and Finish Date

Massey will use all reasonable endeavours to complete the Project by the finish date set out in the first page of this agreement, but will not be held liable for delays or other failures to perform that result from events or circumstances beyond the reasonable control of Massey and, in particular, any failure by the Client to provide such information, services or resources as are reasonably contemplated by this agreement.

### 14 Termination

This agreement can be terminated seven days after written notice of default or an unresolved New Conflict, by either party. The Client will accept any charges incurred up to receipt of the termination notice and any costs caused by the termination.

### 15 Dispute

Notice of dispute will be given in writing. Massey and the Client will in good faith, try to resolve that dispute. This process may include mediation. If the dispute is not resolved within 20 working days from the date the dispute was advised, then the dispute will be referred to arbitration in accordance with the Arbitration Act 1996.

### 16 Partnership or Agency

Nothing in this agreement creates, or is intended to create, a partnership, agency, employer/employee, trust or joint venture relationship between the parties.

### 17 Amendments

All amendments to this agreement must be in writing and signed by both parties. No waiver will be effective unless it is in writing and signed by the waiving party.

### 18 Jurisdiction

This agreement is governed by New Zealand law and the New Zealand courts have jurisdiction in respect of the agreement.