



I-ON INVESTIGATIONS LTD

I-On Investigations Limited

Terms of Engagement

1. Engagement

You have engaged I-On Investigations Limited to undertake an investigation which will be exclusively governed in accordance with these terms of engagement (**Terms of Engagement**) which form part of the Agreement.

These Terms of Engagement are binding on you and us, are governed by the laws of New Zealand, and the Parties irrevocably submit to the exclusive jurisdiction of New Zealand courts.

2. Interpretations

Definitions

- 2.1. **Agreement** has the meaning given to it in clause 11.5.
- 2.2. **Fixed Fee** has the meaning given to it in clause 5.1, and **fee** has the meaning also given in clause 5.1.
- 2.3. **Intellectual Property** includes all intellectual property rights (including copyright), patents, designs and patent and design rights, drawings, documents, data, ideas, calculations, evaluative material, trade secrets, investigative methods and techniques, skills and know-how.
- 2.4. **Instruction** or **Instruct** means a directive, request, or other authorisation given to us by you in connection with the Investigation.
- 2.5. **Investigation** means work carried out in accordance with instructions provided on the client information form or by way of other written instruction. An investigation may include as part of it or in isolation, Surveillance.
- 2.6. **Parties** means you and us collectively.
- 2.7. **Surveillance** means monitoring and/or observation of a person or legal entity (systematically or not) for the purposes of gathering information, ensuring security, preventing or detecting offending and will be completed in the technical manner which is the Intellectual Property of I-On Investigations Limited.
- 2.8. **You** or **client** refers to the individual listed or otherwise described in the document described as the 'new client form'.
- 2.9. **We, us, our** refers to I-On Investigations Limited.

Miscellaneous

- 2.10. Plural includes the singular and vice versa.
- 2.11. Headings are for convenience only and are not an interpretive aid.

3. Scope and timing

- 3.1. You have engaged us to undertake an investigation which will commence upon your agreement to these terms of engagement and conclude at a time described in clause 6 or 7.
- 3.2. The matter to be investigated will be described in the agreement together with our understanding of the context, otherwise supplemented by any instructions.
- 3.3. We will only act in accordance with lawful instructions, and we reserve the right to refuse those instructions. We are not responsible for consequences which flow from the refusal of any instructions.
- 3.4. We will not accept instructions from anyone who is not part of the agreement, and if you want us to accept instructions from any other person or entity that is not part of this agreement, we must confirm our acceptance

of that in writing. When you give us verbal instructions, we will record those in writing and confirm them to you within a reasonable time.

- 3.5. The nature of our investigation means that performance of it may be subject to ongoing instructions as the investigation progresses. Therefore, instructions given at any time may vary the scope of the investigation which may be subject to an adjustment to any fixed fee, and we will notify you of any adjustment in writing.

4. Performance

- 4.1. At all times we will perform the investigation with the care, skill and diligence expected of a reasonable and professional investigator. You will engage and provide instructions to us respectfully.
- 4.2. We will operate under the Private Security Personnel and Private Investigators Act 2010 and as applicable, the Private Security Personnel and Private Investigators (code of Conduct – Surveillance of Individuals) Regulations 2011.
- 4.3. We will perform the investigation with regard to timeframes agreed to by the parties. Timeframes given by us are approximate only and may be subject to matters outside of our control. We assume no liability in connection with any failure to observe indicative timeframes.
- 4.4. You will provide us with any assistance we may require to perform the investigation. This includes among other things: clear and unambiguous instructions, provision of your contact information, information or content of any kind which is relevant for us to undertake the Investigation.
- 4.5. We will withdraw from the investigation or surveillance or refuse to continue performing part of the instructions if in our opinion, performance would present a safety risk.
- 4.6. If you require us to undertake surveillance of a vehicle or property you have confirmed by agreeing to these terms of engagement that you are the registered owner or proprietor of that vehicle or property and have lawful authority to give us these instructions. We reasonably rely on any ostensible representation that may be made by you to this effect.
- 4.7. We will release findings (or report) of the investigation in accordance with clause 6

5. Fees and Costs

- 5.1. You will pay to us, in New Zealand dollars together with applicable tax, all costs of the investigation which includes, among other things, our hourly rate together with any disbursements or expenses incurred by us on your behalf (the **fee**). The parties may agree on a fixed cost of the investigation (the **fixed fee**) which is subject to adjustments only as allowed for by these terms of engagement.
- 5.2. The hourly rate is between \$150 and \$280 which is based on the complexity, risk, urgency and level of expertise required. We will advise you of applicable hourly rate at the time of engagement, which may include a range of hourly rates per instruction received or per investigation as agreed.
- 5.3. The fee or the fixed fee will be payable upon the issue of an invoice which is payable in accordance with the specifics and by due date specified on that invoice. If a due date is not specified, then it becomes payable within 10 working days from the date of issue.
- 5.4. Before the Investigation commences, you will pay us a non-refundable deposit, the amount of which will be set at the time of engagement.
- 5.5. You consent to a credit check being undertaken before the Investigation commences or we accept any Instructions. We reserve the right to refuse to perform the Investigation as a result of any credit check.
- 5.6. If you do not pay the fee or fixed fee when it falls due, then:
 - 5.6.1. We will immediately cease progression with the investigation or instructions, and we will not provide you with any findings in connection with the investigation.
 - 5.6.2. If any amount payable under the agreement (including the fee or fixed fee) is not paid by the due date, interest accrues on the overdue amount at a rate of 10% per annum, calculated daily from the due date

until payment in full. Interest is payable on demand and without prejudice to our other rights and remedies.

- 5.6.3. You will pay all costs of recovery including, among other things, legal fees, debt collection fees, court fees and all other things which may be required to obtain payment.
- 5.6.4. We will not be liable in any capacity for anything that results from your failure to pay the fee in connection with the investigation and/or agreement.
- 5.6.5. We will reserve the right to terminate the agreement with immediate effect.

6. Findings and reporting

- 6.1. Findings in relation to the investigation undertaken in accordance with your instruction will be presented to you as agreed from time to time in a format of our choosing. Our findings will be released only if there is no outstanding fee or fixed fee.
- 6.2. The content of what we release to you is subject to applicable law and the terms of engagement. We will not release to you any incomplete findings or material that contains intellectual property unless otherwise agreed by us.
- 6.3. You must notify us immediately if any findings are inaccurate or contain any errors.
- 6.4. We reserve the right to refuse the release of any findings or incomplete findings if we have reasonable cause.

Final findings

- 6.5. If we have agreed that findings as to the investigation will be released as a final report, then once that report is released to you and there are no outstanding fees or fixed fees then the investigation is completed and the agreement is terminated.

Progressive findings

- 6.6. If we have agreed that findings as to the investigation will be released as the investigation progresses or as certain instructions are completed, then the investigation is subject to the remaining agreed scope described in any instructions and the agreement continues to operate. Progressive findings will not be released, and the investigation may be suspended in accordance with clause 5.6 if any fees or fixed fees are outstanding.
- 6.7. If progressive findings in totality are noted by us to amount collectively to final findings and there are no outstanding fees or fixed fees, then the investigation is completed and the agreement is terminated.

7. Termination

- 7.1. You can terminate the agreement by giving us notice in writing. You must give us 3 working days' notice in writing. Termination will not relieve you of any payment obligations.
- 7.2. If you terminate the agreement by giving notice, we are under no obligation to release findings or material in connection with the investigation which are not complete unless agreed otherwise.
- 7.3. If new instructions reduce the scope of the investigation, then there will be no change to any agreed fixed fee. Any fees incurred to that point will be payable, unless agreed otherwise in writing.
- 7.4. We can terminate the agreement by giving 4 working days' notice in writing for any reason in our sole discretion. Termination under this clause 7.4 is without prejudice to any rights or remedies we may have accrued, and accrued fees or fixed fees will be payable.

8. Liability

- 8.1. To the maximum extent permitted by applicable law we will not be liable:
 - 8.1.1. For any loss, damage or liability suffered or incurred by you or any other person or entity in contract or tort (including negligence) or otherwise.
 - 8.1.2. For any loss, damage or liability that arises directly or indirectly in connection with the investigation or action authorised by the agreement.
- 8.2. To the maximum extent permitted by law, our liability in aggregate to you arising out of or in connection with the agreement (to the extent such liability is not otherwise excluded under this clause 8), including any breach of the agreement by us however arising, is limited to the fee or the fixed fee paid by you to us in the 12 months immediately preceding the earlier of:
 - 8.2.1. The event giving rise to liability;
 - 8.2.2. Completion of the investigation; or
 - 8.2.3. Termination of the agreement.
- 8.3. Any claim you make against us is exclusively governed as follows:
 - 8.3.1. Your claim must be meritorious, and you must give us notice of it.
 - 8.3.2. You waive any and all rights to make a claim of any nature against us from 24 months after completion of the investigation or termination of the agreement.
 - 8.3.3. You must first raise your claim as a dispute in accordance with clause 12 which allows time to remedy the issue.
- 8.4. Liability of us will be reduced in proportion to the extent for which you have contributed to the loss, damage, consequence or other liability.
- 8.5. Any ambiguity in connection with this clause 8 will not be interpreted contra proferentem.
- 8.6. This clause 8 survives termination of the agreement or completion of the investigation.

9. Intellectual Property

- 9.1. All intellectual property in existence as at the date of these terms of engagement, including any intellectual property created after their commencement remains with the respective owner.
- 9.2. You must not attribute the investigation, or any findings, to anyone other than us. You must not remove any trademarks, signatures, logos or similar from works produced from the investigation.
- 9.3. If you provide intellectual property of another person or entity to us, we assume no liability in connection with the evaluation, use, or modification of it, and you represent that you have all rights to provide, use, modify, or allow us to receive, use and modify it.

10. Privacy and confidentiality

- 10.1. We will at all times comply with the Privacy Act 2020. A privacy statement is available on our website.
- 10.2. To protect the integrity of the investigation, you cannot discuss the investigation with anyone other than for lawful purposes or purposes pursuant to engaging professional advice.

11. General

- 11.1. You must not assign any of your rights, powers or obligations in connection with the agreement without our prior written consent. We can withhold consent and are not obliged to agree to an assignment.
- 11.2. If we suspect there is a conflict of interest and cannot conduct the investigation for you, we will immediately notify you. Any fee is payable until that point, and any fixed fee will be pro-rated to the point the notification of the conflict.
- 11.3. Notices must be delivered in writing to our registered address and pursuant to applicable law.
- 11.4. If any part (word, sentence, phrase, or clause) of these terms of engagement is declared unenforceable then the remaining terms of engagement remain unaffected and enforceable.
- 11.5. These terms of engagement, together with the new client form, other documents attached to it, including any instructions given in relation to the investigation, form a whole agreement.

12. Dispute Resolution

- 12.1. The party raising the dispute must give notice to the other that they have a dispute, the nature of it and the remedy sought in writing. If a dispute arises under the agreement, then the parties must act in good faith to resolve that dispute.
- 12.2. The parties may engage in mediation, the particulars of which (including consent to engage in mediation, allocation of cost and governance matters) will be agreed in writing. Neither party is obligated to accept mediation as a dispute resolution avenue.
- 12.3. Nothing in this clause prevents you or us from seeking immediate relief.