

A large, decorative graphic on the right side of the page. It features a series of curved, overlapping lines in shades of blue and white, creating a sense of motion and depth. The lines curve from the bottom left towards the top right, eventually fading into the background.

## Standard Terms and Conditions

These Standard Terms and Conditions are to be read in conjunction with the separate Proposal (Engagement Document) issued to the entity specified therein ('the Client' or 'you').

These Standard Terms and Conditions together with the applicable Engagement Document form our 'Proposal' which, upon acceptance by you, constitute a contract (referred to as 'this Agreement') for the provision of financial report compilation services and/or ad-hoc accounting services and/or training services (as specified in the applicable Engagement Document) ('the Services' or 'the Engagement') by Financial Reporting Specialists Pty Limited ABN 72 121 807 494 ('FRS' or 'we/us') to the Client.

## 1.0 Acceptance

1.1 Our Proposal will remain open for acceptance for 2 calendar months from the date stated in the Engagement Document. Thereafter, acceptance is subject to reconfirmation of the terms (and pricing) of the Proposal by us.

## 2.0 Confidentiality/intellectual property

2.1 Subject to 2.6 and the exceptions noted herein, neither the Client nor FRS will disclose confidential information about the other to third parties without consent. Confidential information includes, but is not limited to, working papers, audit trails, any proposal or tender document, accounting information, system methodologies and documents that are not in the public domain. Exceptions to this are disclosures to related associates, bodies corporate (as defined in the Corporations Act 2001), Representatives (as defined in 4.5 below), legal advisers or auditors, disclosures required by law and disclosures necessary for the proper performance of the Services.

2.2 The Client and FRS agree to take reasonable steps to maintain (within our respective entities) the confidentiality of any proprietary or confidential information obtained as part of the Proposal (Engagement Document).

2.3 If a non-disclosure agreement is signed between you and FRS, that non-disclosure agreement will take precedence over clause 2.1 and 2.2 but it will not otherwise vary or limit any of the parties' rights and obligations under the terms and conditions of the Proposal (Engagement Document).

2.4 Intellectual property rights (including copyright) in all FRS materials created or utilised in providing the Services or incorporated into a report or other material provided to you by FRS remain vested with FRS and shall not be used or distributed without consent. Subject to payment of our fees,

the final versions of any financial reports will pass to you to publish and freely distribute. We have the right to retain a copy of such a report for our records.

2.5 On termination of our Engagement for any reason, each party to the Engagement will return any property of the other (including any confidential information). However, for internal quality or audit purposes, each party is entitled to retain one copy of any documentation or other material upon which the Services are based, subject to the party maintaining such material and documentation in accordance with the confidentiality provisions of this Agreement.

2.6 Where we deem it necessary, which includes post consideration of responses of management or the governing body of the Client in circumstances where it was deemed appropriate to seek such responses having regard to the matter at hand, members of FRS have a professional obligation to disclose to an appropriate authority the following acts which are contrary to prevailing laws or regulations: (a) acts (or suspected acts) of omission or commission; (b) such acts being intentional or unintentional; (c) acts being potentially or actually committed; (d) acts committed by the Client or employer, including management or others working for or under the direction of the Client or employer; (e) the effects of which are considered to be of material significance to the operations of the Client and/or public interest, including interests of investors, creditors and employees, having regard to the actual or potential harm that is or may be caused.

## 3.0 Access to working papers

3.1 The working papers for this Engagement, including electronic documents and files brought into being by FRS, are the exclusive property of FRS and constitute confidential information. We will retain the working papers for as long as we see fit.

3.2 Unless restricted by law, FRS will notify you as soon as practicable and prior to the release of any information, where FRS receives a legally compelling notice or request from a third party for access to FRS working papers. Such access or disclosure will be limited to only what is required.

3.3 At the end of the Engagement, where applicable, copies of the final adjustment report and audit trails supporting the financial report will be released to you and if required, to your external auditors. As the Engagement progresses, we may issue you adjustment reports and audit trails to support any draft financial report provided to you.

4.0 Performance of the services

4.1 The success of the Services requires your timely co-operation, including:

- (a) promptly providing any materials or information requested that we require to carry out the Services;
- (b) ensuring the materials and information provided are accurate (including free from errors), complete and up-to-date;
- (c) ensuring that all copies of documents provided to us are true and complete copies of the originals;
- (d) providing full and frank responses to any of our queries;
- (e) arranging access to third parties where applicable;
- (f) ensuring that appropriate back-up, security and virus checking procedures are in place for any computer facilities you provide or electronic data and files transmitted to FRS by you, or by third parties under your direction, in relation to the Engagement;
- (g) making senior staff available for consultation on request;
- (h) making decisions promptly to facilitate the performance of the Services; and
- (i) providing any other assistance or information set out in our Engagement Document or as reasonably required by us.

4.2 Where fees for the Services have been quoted, they have been provided on the assumption that we receive the above co-operation and commitment from you. The stated fees are for a limited scope and additional fees may be payable in circumstances such as those that may be identified in the Engagement Document and/or where FRS is required or requested to perform additional procedures. Any additional fees will be agreed between the parties either verbally or in writing.

4.3 The Services are confined to the work specified in our Engagement Document. Any variations to the scope agreed in writing or verbally shall also be the subject of these terms and conditions.

4.4 FRS will use all reasonable commercial efforts to complete the Services within the agreed timeframes (if any). In any event, agreed timeframes shall be approximate only and time shall not be of the essence. FRS will use

reasonable endeavours to achieve the agreed time-frames (if any) but will not be liable for any loss or damage suffered by the Client or any third party for a failure or delay to meet any time-frames. Further, we will not be liable for any failure or delay in performing the Services if that failure or delay arises from anything beyond our control, including non-performance of your obligations (including timely receipt of accounting information from you).

4.5 You acknowledge that:

- (a) you are responsible for the reliability, accuracy and completeness of all information provided by you or your representatives or auditor to FRS and FRS is entitled to rely upon all information received as being accurate and complete and, except as expressly stated in the Engagement Document, FRS has no obligation to verify its accuracy and completeness (our Proposal (including our fees) have been prepared on this basis);
- (b) you are responsible for the judgements needed in the compilation and fair presentation of the financial information (including those for which FRS may have provided assistance in the course of the Engagement) as well as any omissions from reports (such as information which is omitted because it is not considered by you to be material, relevant or otherwise required);
- (c) FRS may be required, in the course of providing the Services, to make assessments based on information supplied either by you, your external auditors or compiled by others; and
- (d) to the maximum extent permitted by law, FRS and its officers, employees, subcontractors, agents and professional advisers ('Representatives') are not liable for, and you indemnify FRS and its Representatives against, any loss, damage, claims, liabilities, costs or expenses FRS or any of its Representatives or you or any other person suffers, incurs or sustains, directly or indirectly, in connection with our use or reliance on any information received from you or your representatives or auditor in connection with the Engagement, including (without limitation) any breach by you of clause 4.1 and any claims by third parties that our use or disclosure of any such information breaches any obligations of confidentiality, infringes any third party intellectual property rights or is defamatory or constitutes misleading or deceptive.



- 4.6 You acknowledge that, except as expressly stated in the Engagement Document, the Services do not include verification or validation procedures on transactions underlying final Trial Balance figures, extraction or preparation of the underlying financial information (unless otherwise agreed) and that the Engagement cannot be relied upon to disclose irregularities, including fraud, other illegal acts and errors that may occur.
- 4.7 You acknowledge that you have responsibility to determine the applicable financial reporting framework to be adopted with respect to the compilation of the Client's financial report, taking into consideration the intended use of the financial information, Accounting Standards to be applied to the financial report of the Client (whether mandated by the laws of the jurisdiction with which the Client is required to comply or through voluntary election), and any applicable law or regulation of any jurisdiction with which the Client is required to comply, and you warrant to us that you have used reasonable endeavours to ascertain the financial reporting requirements of such laws or regulations and advised us accordingly, and we are entitled to rely upon your communications to us as being accurate.
- 4.8 You acknowledge that FRS relies on clause 4.7 above without us verifying whether Accounting Standards, laws and regulations are applicable to the Client and its financial report. You agree that FRS and its Representatives are not liable for, and you indemnify FRS and its Representatives against, any loss, damage, claims, liabilities, costs or expenses FRS or any of its Representatives or you or any other person suffers, incurs or sustains, directly or indirectly, in connection with any breach of your warranties in clause 4.7.
- 4.9 Any guidance or assistance provided by FRS as part of the Services will be based on the relevant legislation, Accounting Standards and other regulations at the time the guidance or assistance is provided. We shall use reasonable endeavours to ensure that our guidance and/or assistance is accurate but any such guidance or assistance does not purport to be the provision of a professional opinion or professional advice and therefore, to the maximum extent permitted by law, we do not accept any responsibility for that guidance or assistance or your reliance, or the reliance of third parties, upon such guidance or assistance, nor for updating you or any other person of future amendments or interpretations issued by regulators or standard setters or through the evolution of generally accepted practice.
- 4.10 You acknowledge that as the Accounting Standards are interpretative in nature, the actual accounting or regulatory outcome of a particular transaction will need to be agreed with your external auditor and/or regulator. You accept that the external auditor and/or regulator may not agree with the assistance and/or guidance provided by FRS and that, prima facie, this is not necessarily an indication of any deficiency in our work and does not detract from the value of worked performed by us.
- 4.11 The Services provided in the Engagement do not constitute either an audit or a review and therefore we do not express any assurance or provide an opinion on the financial reports or other information provided to you.
- 4.12 FRS will advise you of a material error in the information provided or made available to us which comes to our attention in the performance of the Services.
- 5.0 Fees and expenses**
- 5.1 We may provide fee quotations for the compilation of financial reports or training services which are a limited scope engagement. Any additional transactional accounting or technical services where fee quotations are not provided will be provided at current charge rates (currently up to \$450 per hour plus GST). Where practical, we will provide you with an estimate of the additional fees. All fees, charges and other taxable supplies under, or in connection with, this Agreement are subject to Goods and Services Tax ("GST") at a rate of 10% (or the applicable rate as amended by legislation). The supplier will be entitled to gross-up for any applicable GST.

- 5.2 You acknowledge that FRS has the right to be paid additional fees as a result of: alterations to the proposed plan of work (including requests from the Client to change the reporting framework or to add disclosures for the first time, or provision of multiple drafts beyond that agreed); specific or inferred requests by the Client for services outside those outlined in the Engagement Document; other work necessarily performed by FRS as a result of inaccurate or incomplete information received from the Client and/or its auditor where such work is deemed necessary by FRS in order to progress the Engagement and in the absence of satisfactory responses to our queries relating to such inaccurate or incomplete information; all other work that otherwise represents a scope change; and time wastage as a result of delays beyond our control. Unless otherwise agreed, these fees would be charged at the applicable current charge rates. During the course of our Engagement we may notify you that additional fees will, or are, being incurred, however, a failure to do so does not affect our rights to invoice you and be paid those fees.
- 5.3 All charges are exclusive of expenses and taxes unless the Engagement Document states otherwise. We will charge you out-of-pocket expenses such as reasonable travel, subsistence and document handling costs (photocopying, printing, fax, and courier etc) incurred in connection with the Services. The charges will be calculated at the amounts incurred by us (net of any applicable GST input tax credit to which we are entitled) plus any tax or other charge imposed on us (now or in the future) in relation with, or as an outcome of, this agreement.
- 5.4 Fees and expenses are payable by you within 14 days of the receipt of a valid tax invoice from us, unless otherwise stated in the Engagement Document or invoice. All payments must be made in full without any deduction, retention, set-off or withholding. We reserve the right to charge default interest on accounts which are overdue by more than a month at the rate fixed under section 2 of the Penalty Interest Rates Act 1983 (Vic) from time to time. We revise our fee scale annually.
- 5.5 Where the Engagement is terminated for any reason prior to completion of the Services, FRS has the right to issue an invoice for reasonable compensation for unbilled work undertaken up to the time of termination. This may be based on either the hourly rates for the work involved or the proportion of the total Services performed as at the date of the termination. We would determine the amount payable acting reasonably. Our calculation will be final and binding on the parties in the absence of manifest error.
- 5.6 FRS will be entitled to assert a lien over any documents, assets or information of the Client that are in FRS' possession until all moneys owing to FRS are paid in full. This includes withholding financial reports prepared by FRS. FRS may also suspend performance of the Services or immediately terminate this Agreement by notice to the Client if moneys owing are not paid on time.
- 6.0 **Liability**
- 6.1 We will use reasonable skill and care in providing the Services.
- 6.2 You acknowledge that the Client's management and Board of Directors have ultimate responsibility for any reports and any other documents produced and that such responsibility cannot be transferred to FRS, and nor does FRS accept any of those responsibilities.
- 6.3 To the maximum extent permitted by law:
- (a) the absolute maximum aggregate limit of FRS' liability for any and all loss, damage, claims, expenses and liabilities howsoever arising (whether under this Agreement, in contract, tort, statute or otherwise) under or in connection with the Services is equal to the aggregate fees (excluding GST) actually paid by the Client to FRS in respect of the relevant Services;
  - (b) Neither party will be liable for any indirect or consequential losses, damages or expenses, fines or penalties, economic loss, wasted resources, death or personal injury, damage to property, loss of turnover, loss of profits, business interruption costs, holding costs, loss of opportunity, loss of business or goodwill, damage to reputation or any liability to or in respect of claims by any other person;
  - (c) FRS is not liable for any costs, expenses, liabilities, claims, losses or damage unless the Client provides written notice of the same to FRS by no later than 3 months after the relevant cost, expense, liability, claim, loss or damage is suffered or incurred. In any event, the Client must provide written notice by no later than 6 months following completion of the relevant Services or termination of the specific Engagement to which the matter relates; and

- (d) FRS is not liable for any costs, expenses, liabilities, claims, losses or damage to the extent that the same is caused or contributed to by any acts or omissions of the Client or any third parties. Without limiting the generality of the foregoing, FRS is not liable for any costs, expenses, liabilities, claims, losses or damage caused or contributed to by complying with any directions or instructions given by the Client or any judgements or decisions made by the Client or its auditor.
- (e) FRS liability limited by a scheme approved under Professional Standards Legislation.

This clause 6.3 applies notwithstanding anything to the contrary in this Agreement. Further, this clause 6.3 applies in addition to any other limitations or exclusions contained in this Agreement.

The limitations in clause 6.3 will not apply to losses or damages caused by our negligence, wilful misconduct, dishonesty, fraud or to the extent prohibited by applicable law or professional regulations.

- 6.4 To the extent that any terms, conditions, warranties, representations or guarantees in favour of the Client are implied or otherwise apply by virtue of statute and cannot be excluded, restricted or modified, then to the maximum extent permitted by law, FRS' liability for failure to comply with any of those matters is limited (at the election of FRS) to one or more of the following:
- (a) if the matter relates to Services, re-supplying the Services or (at our option) paying for them to be re-supplied; and
  - (b) if the matter relates to documentary deliverables or materials, re-supplying them, or (at our option) paying for having them re-supplied.

## 7.0 Third parties

- 7.1 To the maximum extent permitted by law you will indemnify FRS and its Representatives against any liability, claim, loss, damage, cost or expense suffered or incurred by FRS or its Representatives as a result of any claim or demand by a third party which relates in any way to the Services or any deliverable provided by us under this Agreement.
- 7.2 We disclaim all liability to any third party for all costs, loss, damage, claims, expenses and liability that the third party may suffer or incur arising from, relating to, or in any way connected with, the provision of the deliverables to the third party.

## 8.0 Circulation and use of reports

- 8.1 We do not accept responsibility for losses caused to any person as a result of the circulation, reproduction or use of our reports, guidance or other deliverables provided under our Engagement. You indemnify FRS and its Representatives against all such matters in accordance with clause 7.
- 8.2 Our reports should not be designated as audited or reviewed unless you have engaged an external auditor to carry out an audit or review in accordance with applicable Auditing Standards or Review Standards and that auditor has provided a separate opinion.

## 9.0 Fundraising documents

- 9.1 You agree that a reference to FRS or to the Services outlined within the Engagement Document will not be included in any disclosure document (such as a prospectus) or any other offer document without our prior written permission or consent.

## 10.0 Electronic communications

- 10.1 We may communicate with you electronically. Electronically transmitted information cannot be guaranteed to be secure or error free due to the inherent limitations associated with such communication and it can be adversely affected or unsafe to use. We will use commercially reasonable procedures to check for the most commonly known viruses before sending information electronically, but to the maximum extent permitted by law, we will not be liable to you in respect of any error, omission or loss of confidentiality arising from or in connection with the electronic communication of information to you.

## 11.0 Privacy of personal information

- 11.1 Disclosure by you of personal information to us in the course of our Engagement may be subject to the Privacy Act 1988 ("the Privacy Act"). Accordingly, the Services are provided on the basis that you will only disclose personal information about an individual to us:
- (a) for a purpose related to the performance of the Services;
  - (b) provided you have made all disclosures required under the Privacy Act;
  - (c) provided you have obtained any consents required under the Privacy Act; and



- (d) provided to do so would not otherwise breach the Privacy Act.

You must comply with our privacy policy and use reasonable endeavours to provide relevant individuals with a copy of our privacy policy and collection statement details.

- 11.2 As we rely on you to fulfil these obligations, you will indemnify FRS and its Representatives against any claim, loss, damage, liability or expense resulting from your failure to make any disclosure or obtain any consent required under the Privacy Act, or otherwise to comply with the Privacy Act.

- 11.3 If the performance of the Services requires a third party (such as your auditors or accountants) to supply personal information to us on your request, it is your obligation to ensure that the third party complies with clause 11.1 above and you will indemnify FRS and its Representatives against any claim, loss, damage, liability or expense relating from that party's failure to do so, or to otherwise comply with the Privacy Act.

- 11.4 FRS collects, uses and discloses personal information in accordance with the Privacy Act and its privacy policy, a copy of which is available on our website at [frs.com.au](http://frs.com.au).

## 12.0 Occupational health and safety

- 12.1 Our Representatives may need to attend and work at your premises. You acknowledge that our Representatives and you will be required to comply with the occupational health and safety legislation. You agree to take all reasonable steps to safeguard the health and safety of our directors and staff whilst on your premises, and we agree that our staff shall comply with all reasonable safety instructions.

## 13.0 Quality of service and disputes resolution process

- 13.1 We aim to provide you with the highest quality of service that meets your expectations. If you believe that our Services to you could be improved, or if you are dissatisfied with any aspect of our Service, please as the first point of call raise the matter immediately with your FRS contact. This will enable us to ensure that your concerns are dealt with promptly and appropriately. If contacting your FRS contact has not resolved the issue, you can raise the matter directly with our Managing Director who will review your concerns and work with you to resolve the dispute.

Formal complaints can be made in writing and sent by email to your FRS contact and a copy to: The Complaints Officer, Financial Reporting Specialists, PO Box Q133, Queen Victoria Building, Sydney, NSW 1230. Written complaints are recorded, acknowledged within 5 business days and investigated. As soon as practical, and not more than 45 business days after receiving the written complaint, we will respond to your complaint either verbally or in writing.

- 13.2 If the above process has been followed and the dispute relating to the Services or this Agreement has not been resolved, the parties may submit the dispute to mediation before having recourse to any other dispute resolution process. Written notice of the dispute will be given for it to be submitted to mediation before a mediator is chosen by the parties or, where the parties cannot agree, by the Australian Disputes Centre (ADC). The parties will use their best endeavours to settle the dispute promptly. The mediation will be conducted in accordance with the ADC Guidelines for Commercial Mediation to the extent that they do not conflict with the provisions of this section. If the dispute is not resolved within 60 days after notice of the dispute, the mediation will terminate unless the parties otherwise agree.

- 13.3 Ultimately any dispute will be resolved in accordance with clause 15.11.

## 14.0 Utilising outsourced services or cloud computing

- 14.1 FRS uses Accurri as a provider of cloud software. It also uses various Microsoft cloud products (including Office 365) and Dropbox file hosting. All data is securely stored in Australia, with all providers utilising multi-layered security controls and encryption to protect client data.

## 15.0 General

- 15.1 Neither party will be liable to the other for failure to fulfil obligations (other than payment obligations) caused by circumstances outside its reasonable control.

- 15.2 Either party may terminate this Agreement at any time by giving at least 60 days' written notice to the other. Either party may also immediately terminate this Agreement by written notice to the other party if an administrator, receiver, receiver and manager, controller or liquidator is appointed to or in respect of the whole or any part of the other party's assets or undertaking. On termination, we shall be entitled to be paid for work that has been performed up to the date of termination subject to any agreed upper limit, together with any necessarily incurred time incurred for an orderly hand over of information at our standard chargeable rate. For the purpose of this clause, clause 5.5 will apply with the necessary changes.
- 15.3 We will use reasonable efforts to ensure that any individuals named in our Engagement Document or otherwise agreed are available for the estimated period required to undertake the Engagement. However, we reserve the right to change the staff working on the Engagement at any time. We also reserve the right to delegate or subcontract our obligations to others. Subject to this Agreement, we would remain responsible for any work so delegated or subcontracted.
- 15.4 We will not be prevented or restricted by anything in this Agreement from providing services to other clients.
- 15.5 We reserve the right to publish our involvement in this Engagement to the extent that we do not infringe on your confidential information and, unless you have advised us otherwise, you agree that we may, for the purposes of advertising or promotion, identify you as a client of FRS, however such identification shall be limited to the Client's name, brand or marks.
- 15.6 Failure or delay by a party in exercising a power or right given to it under this Agreement does not operate as a waiver of that power or right; nor does a single or partial exercise of a power or right prevent any other or further exercise of it. A waiver by a party of a power or right given to it under this Agreement does not affect any other provision of this Agreement.
- 15.7 Subject to this clause, neither party may, nor shall have the power to, assign or otherwise deal with its rights or obligations under this Agreement without the prior written consent of the other party. FRS or you may do these things without requiring the other's consent if the assignee or other third party is a related body corporate (as defined in the Corporations Act 2001) or is the purchaser of all or a substantial part of our/your business or assets.
- 15.8 During the term of this engagement, and for six (6) months after the Service has been provided, you agree not to knowingly solicit for employment, or to independently contract the services of, any director or employee who is involved with performing this engagement.
- 15.9 If there is any conflict or discrepancy between the terms of these Standard Terms and Conditions and our Engagement Document, the terms of our Engagement Document will prevail to the extent of the inconsistency.
- 15.10 This Agreement forms the entire agreement between us relating to the Services. It replaces and supersedes any previous proposals, correspondence, understandings or other communications whether written or oral in respect of the Services. Except as specifically set out in this Agreement, any representation, term, condition, warranty, undertaking, duty or assurance in respect of the Services, their quality, fitness for purpose, or the care and skill with which the Services will be rendered or their timeliness, whether arising from or implied by statute, common law (including negligence), trade usage, custom or otherwise, is hereby expressly excluded to the maximum extent permitted by law.
- 15.11 This Agreement is governed by the laws of New South Wales (NSW), Australia. Each party irrevocably submits to the non-exclusive jurisdiction of the courts exercising jurisdiction there to hear and to determine any disputes that may arise from or in connection with this Agreement or the Services.
- 15.12 To the extent that any provisions of this Agreement purport to confer any rights, benefits or privileges on any Representatives of FRS, then FRS holds those rights, benefits and privileges both in its own right and as trustee on behalf of each Representative.
- 15.13 FRS reserves the right to vary these Standard Terms and Conditions from time to time. FRS must give the Client notice of any variation pursuant to this clause or must otherwise make the revised Standard Terms and Conditions publicly available on its website (with or without specifically notifying the Client). Variations will take effect from the date so notified or published on FRS' website.
- 15.14 This Agreement prevails over, and to the exclusion of, any terms and conditions put forward at any time (whether contained in, or referred to in, any confirmations, acceptances, purchase orders, requests for tender or otherwise) by the Client.



- 15.15 No rule of construction applies to the disadvantage of FRS just because it, or its advisors, drafted or put forward this Agreement.
- 15.16 Each party enters into this Agreement as independent contractors. Except as expressly contemplated by this Agreement, neither party is an employee, agent, partner, joint venturer, trustee or beneficiary of the other. The parties intend that any fiduciary duties are excluded to the maximum extent permitted by law. Except as contemplated by this Agreement or as otherwise agreed from time to time, no party has any right or authority to act, make representations or incur any obligations on behalf of the other party.
- 15.17 Any amount payable under an indemnity must be paid on demand. It is not necessary for an indemnified person to first pay a cost or expense before being entitled to exercise its right of indemnification from the Client. Each indemnity includes legal costs on a full indemnity basis and the indemnified party will be entitled to select and instruct its own lawyers as it sees fit. Each indemnity in this Agreement (together with any other rights to payment or reimbursement) survives termination or completion of the Engagement.
- 15.18 The rights, powers and remedies of FRS provided for by this Agreement are in addition to, and without prejudice to, or derogation from, any other rights, powers or remedies of FRS whether under this Agreement or otherwise.