



Onesto Solutions Limited
188 Esdaile Road, Pahoia
RD 8
TAURANGA 3180

OPERATIONAL PROTOCOLS

The purpose of this document is to outline the protocols in affect for any work undertaken by Onesto Solutions Limited.

1. Definitions

In this document, unless the context requires otherwise, the following definitions shall apply:

“**Confidential Information**” means all information, data, drawings, specifications, documentation, software listings, source or object codes which the parties’, or any of the parties’ subcontractors may have imparted and may from time to time impart to the other party.

“**Interest**” means in relation to any amount payable to Onesto Solutions Limited, a rate equal to 15% per month above the Reserve Bank of New Zealand’s prime lending rate.

2. Interpretation

In this document, unless the context otherwise requires:

- (a) words importing one gender include the other genders;
- (b) the singular includes the plural and vice versa;
- (c) references to a month or a year are references to a calendar month or year, as the case may be;
- (d) references to dates and times are to dates and times in NZ standard time;
- (e) references to currency are to NZD\$ currency.

3. Contact Information

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4. Invoicing and Payments

Work undertaken by Onesto Solutions Limited will be invoiced to the Client when completed. Payment will be due by the due date printed on the invoice.

5. Disputed Invoices

If the Client disputes the whole or any portion of any invoice submitted by Onesto Solutions Limited, the Client shall pay the portion of the amount stated in the invoice that is not in dispute and shall notify Onesto Solutions Limited in writing of the reasons for disputing the remainder of the invoice within 7 days of receipt of the invoice. If it is resolved that the Client ought to have paid at the time it was first invoiced, then the Client shall pay the amount finally resolved together with Interest on that amount.

6. Default Interest

If the Client fails to pay any amount owing to Onesto Solutions Limited invoiced within five (5) days of the due date for payment, then the Client will pay to Onesto Solutions Limited, on demand, Interest calculated on a daily basis, on the amount so unpaid from the due date for payment until payment is made.

7. Limitation of Liabilities

Onesto Solutions Limited shall not be liable to the Client or any third party for any loss or damage arising directly or indirectly in connection with any work undertaken, any Software developed, its use, misuse or otherwise including (but without limitation) any loss of profit, business, revenue, goodwill or anticipated savings. This exclusion of liability applies to liability in contract, tort (negligence) and any other principle of legal liability.

If, despite the other provisions of these terms, Onesto Solutions Limited is found to be liable to the Client at law, by statute, in equity or otherwise arising from the relationship between Onesto Solutions Limited and the Client, then Onesto Solutions Limited's liability for any single event or series of related events is limited to a maximum of \$500. The Client shall not make more than one monetary claim for the same circumstances that give rise to loss or change.

8. Non-competition

Where software has been developed by Onesto Solutions Limited for a Client, Onesto Solutions Limited shall not re-create the software for any other Client for a period of 12 months providing that all fees and monies owed by the Client to Onesto Solutions Limited have been paid in full by the date the invoice is due for payment.

The twelve month period shall begin from the date the Client has been issued with an invoice for the work undertaken.

9. Ownership of Software

Onesto Solutions Limited retains the ownership, copyright and all rights of all software it develops. Where software has been developed for a Client by Onesto Solutions Limited, the Client shall be given a licence to use the software provided all monies and fees owed by the Client have been paid to Onesto Solutions Limited. The term of the Client's licence shall be indefinite.

10. Rampala Clause

Until all monies owed by a Client to Onesto Solutions Limited have been paid in full, the Client shall have no rights to any licence for use.

11. Onesto Solutions Limited's rights to sell the Software

Onesto Solutions Limited retains all rights to all software developed and shall not enter into any agreement with any other person or company to sell or lease the software for the same 12 month term as described in item 8.

12. The Client's rights to sell the Software

The Client retains the right to on-sell licences for the developed software provided that all monies and fees due by the Client to Onesto Solutions Limited have been paid in full. These on-sold licences shall not be supported by Onesto Solutions Limited and this shall be made aware to the Buyer of the licence for use.

13. Support Services

Onesto Solutions Limited can provide support for the developed software which would be defined in an agreement between Onesto Solutions Limited and the Client. There is no support implied or intended for any developed software unless an agreement has been defined between the Client and Onesto Solutions Limited.

14. Training

Upon the request of the Client, Onesto Solutions Limited would agree to instruct members of the Client's staff in the use of the software on the Client's hardware for such reasonable hourly fee (plus travel) as may be notified from time to time by Onesto Solutions Limited.

15. Intellectual Property

All intellectual property rights, including copyright relating to the Software are the sole property of Onesto Solutions Limited. The Client by using Onesto Solutions Limited agrees to keep such intellectual property rights confidential to the extent that they are not public knowledge.

16. Dispute Resolution

Any dispute arising will be referred in the first instance to the chief executives of the respective parties who must endeavour to resolve such dispute in the spirit of achieving broad equity in respect of the agreement and its purposes.

Failing agreement between them, but only as a last resort if such agreement is not possible, the matter in dispute is to be referred to the President of the New Zealand Computer Society or his/her nominee as an independent referee, who must promptly resolve such dispute and whose decision on the matter is final and binding on the parties.

In resolving such dispute, the referee is not acting as an arbitrator and, accordingly, the provisions of the Arbitration Act 1996 do not apply.

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