



TKD advisory

Terms of Business

Effective date: 5 June 2026

These Terms of Business govern all engagements between TKD advisory (ABN [INSERT]) and the client named in the accompanying Engagement Letter. Together, these two documents form the complete contract for services.

Where anything in these Terms conflicts with the Engagement Letter, the Engagement Letter takes precedence.

1. Definitions

- 1.1** Engagement Letter means the document agreed by both parties setting out the scope, deliverables, timeline, and fees for a specific engagement.
- 1.2** Services means the advisory, facilitation, research, or capability-building work described in the Engagement Letter.
- 1.3** Deliverables means any document, report, workshop output, or other work product produced specifically for the client under this engagement.
- 1.4** Bespoke Workshop Materials means facilitation guides, workbooks, slide decks, or other materials created specifically and exclusively for a named client engagement, which do not form part of TKD advisory's general workshop library.
- 1.5** General Workshop Materials means TKD advisory's pre-existing facilitation frameworks, diagnostic tools, slide templates, and workshop structures developed independently of any client engagement.
- 1.6** Confidential Information means any non-public information relating to either party's business, clients, methodology, or finances disclosed in connection with this engagement.
- 1.7** TKD advisory Intellectual Property means all pre-existing methodology, frameworks, tools, and materials owned by TKD advisory, including its First Principles methodology, General Workshop Materials, and associated diagnostic instruments — whether or not used in a specific engagement.
- 1.8** TKD advisory means TKD advisory (ABN [INSERT]), a consulting practice based in Sydney, Australia.

2. Formation of Agreement

- 2.1** For engagements with a total fee above AUD \$5,000: a binding contract is formed when both parties have signed the Engagement Letter. TKD advisory will not commence substantive work until the signed Engagement Letter is received.
- 2.2** For engagements with a total fee of AUD \$5,000 or below: a binding contract is formed on written confirmation by email from the client accepting the proposal. TKD advisory may commence work upon receipt of that confirmation.
- 2.3** Where work commences before a signed Engagement Letter or written confirmation is received — including initial calls, document reviews, or preparation work undertaken at the client's request — the client agrees to pay for all work performed from the date that work began, at the rates set out in the most recent proposal or, where no proposal has been issued, at TKD advisory's standard rate of AUD \$380 per hour.

2.4 Pre-engagement discussions, scoping calls, and draft proposals do not create an obligation on TKD advisory to perform work and do not constitute a binding agreement.

2.5 Variations to agreed scope must be confirmed in writing by both parties before work on the variation begins. Verbal agreement to expand scope does not create a payment obligation.

3. Client Obligations

3.1 The client must provide TKD advisory with timely access to accurate information, relevant documentation, and key personnel necessary to perform the Services.

3.2 TKD advisory is entitled to rely on information provided by the client without independent verification, unless otherwise agreed in the Engagement Letter.

3.3 Delays caused by the client's failure to provide information, access, or approvals may result in timeline extensions. Where TKD advisory has incurred cost as a result of client-caused delay, additional fees may be charged at the agreed rate.

3.4 Where personal data is shared with TKD advisory, the client warrants that it complies with the Privacy Act 1988 (Cth) and the Australian Privacy Principles, and that it has obtained any required consents for that disclosure. The client indemnifies TKD advisory against claims arising from the client's failure to meet those obligations.

4. Performance of Services

4.1 TKD advisory will perform the Services with reasonable care, skill, and diligence, consistent with the standard expected of a competent professional services provider in the relevant field.

4.2 TKD advisory will ensure that all personnel engaged on an engagement have the necessary experience and capability for the work assigned. Where associates contribute to delivery, TKD advisory retains full responsibility for the quality of all work submitted to the client.

4.3 Unless the Engagement Letter explicitly states a results guarantee, TKD advisory's obligation is to provide the agreed Services with reasonable skill and care — not to guarantee any particular outcome.

4.4 The timeline for the engagement is set out in the Engagement Letter. Meeting agreed deadlines is a shared responsibility. The Engagement Letter will specify the conditions the client must meet to enable timely delivery — including access, approvals, data provision, and review turnaround times. TKD advisory is responsible for alerting the client promptly, and in writing, as soon as it becomes apparent that a deadline is at risk, stating the reason and proposing a revised timeline. Where a deadline is at risk due to the client's failure to meet its obligations, the deadline is extended by the equivalent period of delay caused by the client.

4.5 If the scope of the engagement changes materially, TKD advisory will notify the client in writing. Additional scope will be quoted separately and requires written acceptance before work proceeds.

5. Fees and Invoicing

5.1 Fees are set out in the Engagement Letter. Unless otherwise stated, all fees are in Australian Dollars (AUD) and exclude GST.

5.2 GST will be added to all invoices where applicable under the A New Tax System (Goods and Services Tax) Act 1999 (Cth). TKD advisory will issue a valid tax invoice as required under that Act.

5.3 Invoicing will occur as specified in the Engagement Letter. Where no billing schedule is specified, the following defaults apply. For fixed-fee engagements: 50% is invoiced on commencement (defined as the date both parties have signed the Engagement Letter), 25% is invoiced at the midpoint of the engagement as set out in the agreed project plan, and 25% is invoiced on delivery of the final Deliverables. For time-and-materials engagements: invoicing occurs monthly in arrears.

5.4 Unless otherwise stated in the Engagement Letter, disbursements — including travel, accommodation, printing, venue hire, and third-party fees incurred on the client's behalf — are costs payable by the client. They will be invoiced at actual cost with supporting documentation. TKD advisory will seek prior written approval for any single disbursement above AUD \$300.

5.5 Fees are reviewed annually. TKD advisory may increase rates once per calendar year, with 30 days' written notice. For ongoing engagements, the revised rate applies from the date specified in the notice — provided that date falls no earlier than 30 days after the notice is given. For new engagements commencing after the review date, the current rate at the time of proposal applies automatically.

6. Payment Terms

6.1 Payment is due within 14 days of invoice date, by bank transfer to TKD advisory's nominated account.

6.2 Invoices not paid by the due date are overdue. TKD advisory may charge interest on overdue amounts at 10% per annum (calculated daily) from the due date until full payment is received.

6.3 All reasonable debt recovery costs — including legal fees and collection agency fees — incurred in recovering overdue amounts are payable by the client.

6.4 Withholding payment The client may not withhold or set off the full invoice amount because part of it is in dispute. Where a specific deliverable is genuinely disputed, the client must: (a) notify TKD advisory in writing within 14 days of receiving the invoice, identifying the specific amount in dispute and the reason; (b) pay the undisputed portion of the invoice by the due date; and (c) hold the disputed portion pending resolution under Section 16. TKD advisory will acknowledge and engage with any dispute raised within this timeframe.

6.5 TKD advisory may suspend work if any invoice remains unpaid 14 days after its due date, without incurring liability for any resulting delay or loss.

7. Cancellation and Postponement

7.1 Either party may cancel an engagement by giving written notice. The following cancellation fees apply to the total engagement fee:

Notice given before scheduled start	Cancellation fee
More than 4 weeks	No fee
2–4 weeks	25% of total engagement fee
Less than 2 weeks	50% of total engagement fee
5 business days or fewer	100% of total engagement fee

7.2 Where TKD advisory cancels an engagement for reasons other than client default or insolvency, fees paid for work not yet performed will be refunded.

7.3 Postponement requested by the client within 2 weeks of a scheduled session date incurs a rescheduling fee of 15% of that session's fee, to cover preparation already committed.

8. Early Termination

8.1 Either party may terminate the engagement by giving 20 business days' written notice.

8.2 On termination, TKD advisory is entitled to payment for all work completed up to the termination date, plus any committed third-party costs that cannot be cancelled.

8.3 On receipt of a termination notice, TKD advisory will provide the client with all work-in-progress materials and preliminary outputs produced to that point.

8.4 TKD advisory may terminate immediately, without notice or liability, in any of the following circumstances: (a) the client becomes insolvent, is unable to pay its debts as they fall due, enters voluntary administration (a formal insolvency process in which an external administrator takes control of a company to assess whether it can be rescued or wound up — distinct from but often preceding

liquidation), is placed in liquidation, or ceases trading; (b) the client materially breaches these Terms and fails to remedy the breach within 10 business days of written notice; or (c) continued performance would require TKD advisory to act illegally or in breach of professional obligations.

8.5 All fees outstanding at the date of termination are immediately due and payable.

9. Confidentiality

9.1 Each party agrees to keep the other's Confidential Information strictly confidential and not to disclose it to any third party without prior written consent.

9.2 These obligations do not apply to information that: is or becomes publicly known without breach of this clause; was already known to the receiving party before disclosure; is independently developed by the receiving party without access to the Confidential Information; or must be disclosed by law, court order, or regulatory obligation.

9.3 TKD advisory may refer to the client's name and the general nature of services provided in its marketing materials, website, LinkedIn profile, and proposals, as an indication of experience — unless the client requests in writing that this not occur. Where the client makes such a request, TKD advisory may instead refer to the engagement by sector only (for example, 'a housing-focused NFP in NSW').

9.4 TKD advisory may use anonymised insights, patterns, and learnings from engagements for methodology development, research, and thought leadership, provided no information can be attributed to or identified with the client.

9.5 Confidentiality obligations in this section survive termination of the engagement for 3 years, unless extended by agreement in the Engagement Letter.

10. Intellectual Property

10.1 TKD advisory Intellectual Property — including its First Principles methodology, General Workshop Materials, and all tools or materials developed independently of any client engagement — remains the sole property of TKD advisory at all times, whether or not used or referenced in the course of an engagement.

10.2 Bespoke Workshop Materials — facilitation guides, workbooks, exercises, or slide decks created specifically and exclusively for a client's named engagement, which do not form part of TKD advisory's general library — become the client's property on full payment of all fees for that engagement.

10.3 All other Deliverables (reports, strategy documents, policy papers, evaluation frameworks) produced specifically for the client under the engagement become the client's property on full payment of all fees.

10.4 Licence for embedded TKD advisory IP Where any Deliverable incorporates or is built upon TKD advisory Intellectual Property — for example, a report that applies TKD advisory's First Principles diagnostic approach, or workshop outputs structured around TKD advisory's facilitation tools — the client receives a licence to use those embedded elements for its own internal purposes only. This licence is: **non-exclusive** (meaning TKD advisory retains the right to use the same methodology with other clients — without this, one client could argue TKD advisory cannot apply its own approach to anyone else); **non-transferable** (meaning the client cannot pass the licence to another organisation, subsidiary, or contractor); and limited to **internal use** (meaning the client cannot run facilitated sessions for third parties using TKD advisory's materials or commercialise them in any way). A separate written licence agreement is required for any use beyond these terms.

10.5 Where the client provides its own IP — brand, data, or specific content — for incorporation into Deliverables, ownership of that contribution remains with the client.

10.6 TKD advisory may retain copies of all Deliverables for professional records and quality assurance.

11. Liability

11.1 To the maximum extent permitted by law, TKD advisory's total liability to the client for any claim arising from or related to an engagement is limited to the total fees paid by the client under that specific engagement.

11.2 To the maximum extent permitted by law, TKD advisory is not liable for any indirect, consequential, or special loss — including loss of revenue, loss of profit, loss of opportunity, or reputational damage — whether arising in contract, tort, or otherwise.

11.3 TKD advisory is not liable for losses arising from the client's reliance on draft, interim, or verbally delivered advice. Only final written Deliverables should be acted upon without prior written confirmation from TKD advisory.

11.4 Nothing in these Terms limits liability for: death or personal injury caused by negligence; fraud or fraudulent misrepresentation; or any liability that cannot lawfully be excluded or limited under the Australian Consumer Law or any other applicable legislation.

11.5 The client indemnifies TKD advisory against all third-party claims arising from the client's use of Deliverables beyond the scope or purpose of the engagement, or from the client's breach of these Terms. The scope of this indemnity may be modified by agreement in the Engagement Letter.

12. Professional Indemnity Insurance

12.1 TKD advisory holds Professional Indemnity insurance and Public Liability insurance appropriate to the nature of its engagements. Details of current coverage are available on request.

12.2 The client acknowledges that TKD advisory's liability is subject to the limitations in Section 11, and that the existence of insurance does not expand those limits.

13. Complaints

13.1 If the client is dissatisfied with any aspect of the Services, they must notify TKD advisory in writing within 30 days of the relevant event.

13.2 TKD advisory will acknowledge the complaint within 5 business days and seek to resolve it within 20 business days.

13.3 A complaint does not relieve the client of the obligation to pay undisputed portions of invoices. Clause 6.4 applies to any disputed portion.

13.4 Where TKD advisory accepts that a complaint is valid, it may at its election: revise or re-perform the relevant work at no additional charge; reduce the fee for the relevant deliverable; or, where neither is practicable, provide a partial refund proportionate to the value not delivered.

14. Conflict of Interest

14.1 TKD advisory will disclose any material conflict of interest to the client before accepting an engagement, or as soon as one becomes apparent during the engagement.

14.2 TKD advisory will not simultaneously advise directly competing organisations on the same or substantially similar strategic question without the written consent of both parties.

14.3 TKD advisory will not accept gifts, payments, or benefits from third parties in connection with its advice to the client.

15. Publication and External Use of Deliverables

15.1 The client may use Deliverables internally without restriction once full payment has been received.

15.2 Where the client intends to publish, publicly present, distribute externally, or make public reference to a Deliverable — including at conferences, in media, or on public platforms — the client will notify TKD advisory in advance and in writing. TKD advisory will respond within 5 business days. Failure by TKD advisory to respond within 5 business days does not constitute consent to publication.

TKD advisory may request that appropriate attribution be included, or that specific sections be contextualised where public presentation without context could misrepresent the work.

15.3 TKD advisory will not unreasonably withhold consent to publication. Where consent is withheld, TKD advisory will provide a written explanation.

16. Dispute Resolution and Governing Law

16.1 If a dispute arises, the parties agree to first attempt to resolve it through direct negotiation within 20 business days of one party notifying the other in writing.

16.2 If direct negotiation fails, either party may request non-binding mediation through a mutually agreed mediator, or if no agreement is reached on a mediator, through the NSW Dispute Resolution Centre or equivalent body.

16.3 If mediation does not resolve the dispute within 30 days, either party may commence legal proceedings. Where the client is a Commonwealth entity or the engagement is principally funded by the Commonwealth, proceedings may be brought in the Federal Court of Australia or the courts of the Australian Capital Territory. In all other cases, proceedings are brought in the courts of New South Wales.

16.4 These Terms are governed by the laws of New South Wales, Australia, except where clause 16.3 applies and federal jurisdiction is appropriate.

17. Associates

17.1 TKD advisory may engage associates to support delivery of Services. TKD advisory retains responsibility for the quality and delivery of all work. Associates will not contact the client directly unless agreed in the Engagement Letter.

17.2 Associates engaged by TKD advisory are bound by confidentiality obligations equivalent to those in Section 9 and by IP obligations consistent with Section 10.

18. TKD advisory as Associate, Sub-contractor, or Partner

18.1 This section applies where TKD advisory is engaged by another advisory firm, consultancy, or organisation (the Engaging Firm) to contribute to a project as a named associate, sub-contractor, or partner — rather than as the primary contracted advisor to the end client.

18.2 Partnership and associate arrangements: TKD advisory may enter into partnership or associate arrangements with other organisations for the purpose of maintaining working relationships, exploring opportunities, and positioning for potential future projects. The existence of such an arrangement does not itself constitute a commitment to perform work. Individual projects arising from or within a partnership arrangement only commence on written acceptance by both TKD advisory and the Engaging Firm for that specific project.

18.3 Intellectual Property carve-out: TKD advisory's pre-existing Intellectual Property — including its First Principles methodology, General Workshop Materials, and any tools or frameworks developed independently of the specific project — remains the sole property of TKD advisory in all circumstances. Only outputs specifically created for the end client under a specific project are subject to the Engaging Firm's IP arrangements with that client. Any agreement with an Engaging Firm must not purport to transfer ownership of TKD advisory's pre-existing IP.

18.4 Direct client carve-out: An agreement with an Engaging Firm does not restrict TKD advisory from independently approaching, proposing to, or contracting with organisations not directly served by that specific engagement, provided no Confidential Information derived from the engagement is used in doing so.

18.5 Sector non-compete: TKD advisory will not sign an agreement that restricts it from independently practising in the public sector, social sector, or advisory services market in Australia. Broad sector non-compete clauses are not appropriate for sub-contractor or associate arrangements and are, in most circumstances, unenforceable under Australian law.

18.6 Payment terms as sub-contractor: Where TKD advisory is engaged as a sub-contractor or associate on a specific project, the Engaging Firm must pay TKD advisory within 14 days of receipt of invoice.

19. Advisory Hours Arrangements

19.1 This section applies to engagements structured as a purchased block of advisory hours, where the client draws down time as needed against a pre-agreed total.

19.2 Hours are invoiced on purchase of the block, in advance. Unused hours do not roll over beyond the validity period stated in the Engagement Letter (typically 3–6 months from purchase date). TKD advisory will send a reminder to the client no later than one month before the validity period expires. Where hours remain unused at expiry, a grace period of one calendar month applies — unused hours purchased in good faith may be used during this grace period without additional charge. Hours remaining unused after the grace period are forfeited.

19.3 TKD advisory will provide a brief monthly summary of hours used, topics covered, and hours remaining. This summary is sent by email and serves as the basis for any renewal discussion.

19.4 Hours may be used for any advisory purpose agreed at the outset: calls, document reviews, strategy sessions, stakeholder mapping, or structured thinking sessions. Facilitated workshop delivery is not covered by an advisory hours arrangement and will be quoted separately.

19.5 The hourly rate for advisory hours is set in the Engagement Letter.

20. Non-solicitation

20.1 For 12 months following completion of an engagement, the client will not directly engage, employ, or solicit any associate introduced by TKD advisory in the course of that engagement, without TKD advisory's prior written consent.

20.2 A breach of this clause entitles TKD advisory to a fee equivalent to 20% of the first 12 months' remuneration paid to the relevant associate.

21. Force Majeure

21.1 Neither party is in breach of these Terms, or liable for any delay or failure to perform its obligations, to the extent that such delay or failure is directly caused by a Force Majeure Event and the affected party has complied with the notification obligations in clause 21.2.

21.2 The affected party must notify the other party in writing as soon as reasonably practicable after a Force Majeure Event arises or becomes known, and in any case within 5 business days. The notice must: (a) describe the nature of the event; (b) state the obligations affected and the expected duration of the impact; and (c) describe the steps being taken to mitigate the impact. The affected party must provide written updates every 10 business days while the event continues.

21.3 A Force Majeure Event means an event or circumstance beyond a party's reasonable control that prevents or materially hinders performance of an obligation under these Terms, and which could not reasonably have been anticipated or avoided. For the avoidance of doubt, the following are recognised Force Majeure Events for the purposes of these Terms:

(a) Natural disaster: earthquake, flood, bushfire, cyclone, or other severe weather event that physically prevents performance or access to premises required for delivery.

(b) Pandemic or epidemic: government-declared public health emergency that results in mandatory quarantine, border closure, venue shutdown, or travel restriction directly preventing delivery of the contracted services.

(c) Government action: legislation, regulation, order, or directive by a government or regulatory authority that makes performance illegal or physically impossible — not merely more burdensome or expensive.

(d) Critical infrastructure failure: prolonged failure of electricity, internet, or communications infrastructure that is not caused by the affected party and is outside its reasonable ability to remedy or work around within a reasonable period.

(e) Serious incapacity of a key person: in the case of TKD advisory specifically, unexpected physical or mental incapacity of the principal consultant (Tom Kortenbach) that: (i) is certified by a registered medical

practitioner as preventing the performance of the relevant services; (ii) has continued or is expected to continue for more than 10 consecutive business days; and (iii) cannot reasonably be mitigated by engaging a suitably qualified associate on equivalent terms within that period. Minor illness, temporary indisposition, fatigue, and ordinary health fluctuations do not constitute incapacity for this purpose. The basis for this provision reflects the established principle in Australian contract law that contracts for personal services are discharged by the death or physical or mental incapacity of the contracting party where that incapacity is genuine and involuntary — see the doctrine of frustration as recognised in *Scanlan's New Neon Ltd v Tooheys Ltd* (1943) 67 CLR 169 (High Court of Australia) and as affirmed in the NSW context in *Cassidy v Cassidy* [2020] NSWSC 1484, in which the Supreme Court of New South Wales confirmed that unanticipated and involuntary personal incapacity can frustrate a contract for personal services.

21.4 The following are expressly excluded from Force Majeure and do not excuse non-performance: (a) general economic conditions, market downturns, or financial difficulty; (b) staff shortages or subcontractor unavailability that are not themselves caused by a Force Majeure Event; (c) foreseeable events that a reasonable person in TKD advisory's position would have anticipated and planned for at the time of contracting; (d) failure to pay money; and (e) routine minor illness or temporary unavailability.

21.5 If a Force Majeure Event continues for more than 30 consecutive days, either party may terminate the engagement on written notice without liability, except that the client remains obligated to pay for all work performed and all committed third-party costs incurred up to the date of termination. Where TKD advisory terminates under this clause due to personal incapacity, TKD advisory will use reasonable endeavours to facilitate a transition to an alternative advisor.

22. Records Retention and Privacy

22.1 TKD advisory will retain project records — including correspondence, working papers, and Deliverables — for 7 years following completion of the engagement, consistent with professional practice and Australian tax record-keeping obligations.

22.2 Any personal data held in connection with an engagement will be handled in accordance with the Privacy Act 1988 (Cth) and the Australian Privacy Principles. TKD advisory's Privacy Policy, available at tkdadvisory.com, sets out how personal data is collected, used, and protected.

22.3 On written request following the retention period, TKD advisory will securely delete client materials no longer required, subject to any legal obligation to retain them.

23. General

23.1 These Terms, together with the Engagement Letter, constitute the entire agreement between the parties and supersede all prior discussions, representations, and agreements.

23.2 TKD advisory may update these Terms. Clients will be notified of material changes at least 30 days before they take effect. Updated Terms do not apply to engagements already in progress unless both parties confirm acceptance in writing.

23.3 If any clause is found to be invalid or unenforceable, the remaining clauses continue in full force and effect.

23.4 Neither party may assign its rights or obligations under an engagement without the other party's prior written consent.