

Indemnity for GST

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This precedent is part of a LexisNexis suite of precedents.

This precedent is current to **April 2017**.

Introductory note

This precedent is an example of a typical indemnity clause where the recipient of a taxable supply is indemnified in relation to the supply.

What is an indemnity?

An indemnity is a promise by one party to indemnify another party incurred by another party usually as a result of a contract with that party. For example, many building contracts between a contractor and a builder contain clauses where the builder indemnifies the Owner against the Owner for damage or injury caused by the builder.

In Australia, there is a statutory requirement that an indemnity guarantee to be enforceable it should be in writing. See *Laws of Australia — 220 — Guarantees and Indemnities*.

Codes and legislation which may impact on indemnities

In Australia indemnities certain legislation may impact on the enforcement of an indemnity where the indemnity is subject to regulations or codes. It is important when drafting an indemnity to consider legislation and codes which may impact on the indemnity.

The following are examples of industry codes which may impact on an indemnity:

- **The Australian Bankers' Association Code (The Banking Code):** In the case of indemnities relating to banking compliance with the Banking Code, the Banking Code may enforce the indemnity.

The Banking Code is a voluntary code of practice to be followed when dealing with prospective customers and the Banking Code is contractually bound by the Banking Code which has been applied since 1 January 2008.

- **National Credit Code (NCC) and National Consumer Act 2010 (Cth):** The NCC is part of the National Consumer Code as the National Consumer Code.

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