

## PROFESSIONAL PRACTICE: HOLDBACK SUM

We refer to the above subject.

It has come to our attention that some Clients have been subjecting our members to enter into a Contract with them with the inclusion of a **Holdback Sum Clause**.

### What is a Holdback Sum?

As the name suggests, a Holdback Sum is a pre-determined amount of money that will be withheld by the Client in the event a particular milestone is not achieved, or achieved but not “to the reasonable satisfaction of the Client”. This amount will only be released once specific criterias of the milestone has been met, namely that the Client is thoroughly satisfied.

### Why is the inclusion of a Holdback Sum Clause a concern?

The particular term, “...to the reasonable satisfaction of the Client”, is extremely subjective and open-ended such that it is easily exploited for abuse by the Client, and exposes the Landscape Consultant to be constantly leveraged and held ransom.

ILAM does not believe the inclusion of such Clauses will add value to the delivery of the project, but on the contrary, puts the Landscape Architect in an extremely disadvantaged position. As such, all members are urged to make a collective stand against such biased and discriminatory measures against the profession before it becomes a widespread and acceptable norm.

### What should I do if I am asked to enter into a Contract with a Holdback Sum Clause?

ILAM would like to urge members to thoroughly scrutinise all Contracts presented to them by prospective Clients in entirety prior to the signing of such documents, and be wary of any Holdback Sum Clauses or the manifestation of the term “Quantum Meruit” that might subtly find its way into the Contract.

Professional Consultants are fully entitled to raise their concerns and grouses to their prospective Client if a particular Clause or wordings within the Contract do not sit well with them, and to request for the Clause or wordings to be omitted or revised amicably. In this case, members may highlight to the prospective Client the Institute’s stand on this issue and for it to be omitted from the Contract.

Members are also strongly encouraged to contact ILAM’s Professional Practice Committee if they wish to seek further advice on this matter.

## “STEWARDS OF THE LAND”

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President 2022/2024

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