

TERMS OF ENGAGEMENT + CLIENT CARE INFORMATION

1 General

- 1.1 These Standard Terms of Engagement (Terms) apply to any current engagement and also to any future engagement, whether or not we send you another copy of them. We are entitled to change these Terms from time to time. If we do, we will send you amended Terms. Our relationship with you is governed by New Zealand law and New Zealand courts have exclusive jurisdiction.

2 Services

- 2.1 The services we are to provide for you (the Services) are outlined in our letter of engagement along with any further instructions that you provide to us in writing (or that we record in writing).

3 Client Care Information

- 3.1 The obligations lawyers owe to clients are described in the [Rules of Conduct and Client Care for Lawyers](#). Those obligations are subject to other overriding duties, including duties to the courts and to the justice system.
- 3.2 When providing the Services to you, we must:
- a act competently, in a timely way, and in accordance with instructions received and arrangements made;
 - b protect and promote your interests and act for you free from compromising influences or loyalties;
 - c discuss with you your objectives and how they should best be achieved;
 - d provide you with information about the work to be done, who will do it, and the way in which the services will be provided;
 - e charge you a fee that is fair and reasonable, and let you know how and when you will be billed;
 - f give you clear information and advice;
 - g protect your privacy and ensure appropriate confidentiality;
 - h treat you fairly, respectfully, and without discrimination;
 - i keep you informed about the work being done and advise you when it is completed; and
 - j let you know how to make a complaint, and deal with any complaint promptly and fairly.

4 Communications

- 4.1 We will obtain from you contact details, including email address, postal address and telephone numbers. We may provide documents and other communications to you by email (or other electronic means). You will advise us if any of your contact details change.
- 4.2 We will report to you periodically on the progress of any engagement and will inform you of any material and unexpected delays, significant changes or complications in the work being undertaken. You may request a progress report at any time.
- 4.3 You agree that we may provide you from time to time with other information that we think may be relevant to you, such as legal updates, updates about our firm, events, newsletters and information bulletins. At any time you may request that this not be sent to you.

5 Financial

- 5.1 **Fees:** The basis upon which we will charge our fees is set out in our engagement letter.
 - a Unless other arrangements are agreed between us and recorded in writing, our fees are calculated on an hourly basis, and the hourly rates are set out in our engagement letter. Time spent is recorded in six-minute units.
 - b Hourly fees may be adjusted to ensure the fee is fair and reasonable to take into account matters such as the complexity, urgency, value and importance of the Services. Full details of the relevant fee factors are set out in Rule 9 of the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 (Rules).
- 5.2 **Disbursements and Third Party Expenses:** In providing the Services we may incur disbursements and payments to third parties on your behalf. You authorise us to incur these disbursements (which may include such items such as search fees, court filing fees, registration fees and travel and courier charges) which are reasonably necessary to provide the Services. You also authorise us to make payments to third parties on your behalf which are reasonably required to undertake the Services (which may include items such as experts' costs or counsel's fees). These will be included in our invoice to you, shown as "disbursements".
- 5.3 **GST:** Our services will usually attract Goods and Services Tax (GST). If this is the case, GST is payable by you on our fees and charges.
- 5.4 **Invoices:** We will invoice you on the 20th of each month, and on completion of the matter, or termination of our engagement. We may send you invoices more frequently when we incur a significant expense or undertake a significant amount of work over a shorter period of time.
- 5.5 **Payment:** Invoices are payable within 14 days of the date of the invoice, unless alternative arrangements have been made with us.
 - a If you have difficulty in paying any of our accounts, please contact us promptly so that we can discuss payment arrangements.
 - b If your account is overdue we may:

- i charge interest on any amount that is more than 14 days overdue, at the rate of 10% per annum (calculated daily and charged monthly) for the period that the invoice is outstanding;
 - ii stop work on any matters in respect of which we are providing services to you;
 - iii recover from you in full any costs we incur (including on a solicitor/client basis) in seeking to recover the amounts from you, including our own fees and the fees of any collection agency.
- c Payment can be made by direct deposit into the firm's bank account, the details of which will be set out on our invoices.

5.6 **Estimates:** You may request an estimate of our fee for undertaking the Services at any time. If possible we will provide you with an estimate (which may be a range between a minimum and a maximum amount or for a particular task or step). An estimate is not a quote. Any significant assumptions included in the estimate will be stated and you must tell us if those assumptions are wrong or change. We will inform you if we are likely to exceed the estimate by any substantial amount. Unless specified, an estimate excludes GST, disbursements and expenses.

5.7 **Third Parties:** Although you may expect to be reimbursed by a third party for our fees and expenses, and although our invoices may at your request or with your approval be directed to a third party, you remain responsible for payment to us in accordance with these Terms if the third party fails to pay us.

6 Confidentiality and Personal Information

6.1 **Confidence:** We will hold in confidence all information concerning you or your affairs that we acquire during the course of acting for you. We will not disclose any of this information to any other person except:

- a to the extent necessary or desirable to enable us to carry out your instructions; or
- b as expressly or impliedly agreed by you; or
- c as necessary to protect our interests in respect of any complaint or dispute; or
- d to the extent required or permitted by law.

6.2 Confidential information concerning you will as far as practicable be made available only to those within our firm who are providing legal services for you.

6.3 **Personal information and Privacy:** In our dealings with you we will collect and hold personal information about you. We will use that information to carry out the Services and to contact you about issues we believe may be of interest to you (including as referred to in 4.3, above).

6.4 Subject to clause 6.1, you authorise us to disclose, in the normal course of performing the Services, such personal information to third parties for the purpose of providing the Services and any other purposes set out in these Terms.

- 6.5 We may disclose your name and address to third parties such as credit agencies to perform a credit reference or to undertake credit management or collection processes if it is reasonable to do so.
- 6.6 The information we collect and hold about you will be kept strictly confidential. If you are an individual, you have the right to access and correct this information. If you require access, please contact us.

7 Documents, Records and Information

- 7.1 We will keep a record of all important documents that we receive or create on your behalf on the following basis:
- a We may keep a record electronically and destroy originals (except where the existence of an original is legally important).
 - b At any time, we may dispose of documents which are duplicates, or that are trivial (such as emails which do not contain substantive information), or documents that belong to us.
 - c We are not obliged to retain documents or copies where you have requested that we provide them to you or to another person and we have done so, although we are entitled to retain copies for our own records if we wish to do so.
- 7.2 We will provide to you on request copies or originals (at our option) of all documents to which you are entitled under the Privacy Act 2020 or any other law. We may charge you our reasonable costs for doing this.
- 7.3 Where we hold documents that belong to a third party you will need to provide us with that party's written authority to uplift or obtain a copy of that document.
- 7.4 Unless you instruct us in writing otherwise, you authorise us and consent to us (without further reference to you) to destroy (or delete in the case of electronic records) all files and documents in respect of the Services seven years after our engagement ends (other than any documents that we hold in safe custody for you or are otherwise obliged by law to retain for longer). We may retain documents for longer at our option.
- 7.5 We may, at our option, return documents (either in hard or electronic form) to you rather than retain them. If we choose to do this, we will do so at our expense.
- 7.6 We own copyright in all documents or work we create in the course of performing the Services but grant you a non-exclusive licence to use and copy the documents as you see fit for your own personal or commercial use. However, you may not permit any third party to copy, adapt or use the documents without our written permission.

8 Conflicts of Interest

- 8.1 We are obliged to protect and promote your interests to the exclusion of the interests of third parties and ourselves as set out in the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 (Rules). This may result in a situation arising where we have a conflict of interest.

- 8.2 We have procedures in place to identify and respond to conflicts of interest or potential conflicts of interest. If a conflict of interest arises we will advise you of this and follow the requirements and procedures set out in the Rules. This may mean we cannot act for you further in a particular matter and we may terminate our engagement.

9 Duty of Care

- 9.1 Our duty of care is to you and not to any other person. We owe no liability to any other person, including for example any directors, shareholders, associated companies, employees or family members unless we expressly agree in writing. We do not accept any responsibility or liability whatsoever to any third parties who may be affected by our performance of the Services or who may rely on any advice we give, except as expressly agreed by us in writing.
- 9.2 Our advice is not to be referred to in connection with any prospectus, financial statement, or public document without our written consent.
- 9.3 Our advice is opinion only, based on the facts known to us and on our professional judgement, and is subject to any changes in the law after the date on which the advice is given. We are not liable for errors in, or omissions from, any information provided by third parties.
- 9.4 Our advice relates only to each particular matter in respect of which you engage us. Once that matter is at an end, we will not owe you any duty or liability in respect of any related or other matters unless you specifically engage us in respect of those other matters.
- 9.5 Unless otherwise agreed, we may communicate with you and with others by electronic means. We cannot guarantee that these communications will not be lost or affected for some reason beyond our reasonable control, and we will not be liable for any damage or loss caused thereby.

10 Professional Indemnity Insurance

- 10.1 We hold professional indemnity insurance that meets the minimum standards specified by the Law Society. Details of this insurance can be provided on request.

11 Limitations on our Obligations or Liability

- 11.1 To the extent allowed by law, our aggregate liability to you (whether in contract, tort, equity or otherwise) in connection with our Services is limited to:
- a the maximum amount available to be paid out under the professional indemnity insurance held by the firm; or
 - b where an amount is not available to be paid out under the professional indemnity insurance held by the firm, five times the fees paid by you (excluding disbursements and GST) for our Services on the relevant matter.

12 Termination

- 12.1 You may terminate our retainer at any time.
- 12.2 We may terminate our retainer in any of the circumstances set out in the Rules including the existence of a conflict of interest, non-payment of fees, and failure to provide instructions.

- 12.3 If our retainer is terminated you must pay us all fees, disbursements and expenses incurred up to the date of termination.

13 Feedback and Complaints

- 13.1 Client satisfaction is very important to us and feedback from clients is helpful. If you would like to comment on any aspect of the service provided by us, including how we can improve our service, please contact us.
- 13.2 If you have any concerns or complaints about our services, please raise them as soon as possible. We will inquire into your complaint and endeavour in good faith to resolve the matter with you in a way that is fair to all concerned.
- 13.3 If you are not satisfied with the way we have dealt with your complaint the New Zealand Law Society has a complaints service to which you may refer the issue. You can call the 0800 number for guidance, lodge a concern or make a formal complaint. Complaints may be directed to:

Lawyers Complaints Service

PO Box 5041
Wellington 6140
New Zealand
Phone: 0800 261 801

To lodge a concern:

www.lawsociety.org.nz/for-the-community/lawyers-complaints-service/concerns-form

To make a formal complaint:

www.lawsociety.org.nz/for-the-community/lawyers-complaints-service/how-to-make-a-complaint

Email: complaints@lawsociety.org.nz

14 Lawyers Fidelity Fund

- 14.1 We do not operate a trust account and will not hold any money for you on trust, however we are required to inform you that the Law Society maintains the Lawyers' Fidelity Fund to provide protection against loss arising from theft by lawyers. The maximum amount that can be paid to you is \$100,000. Except in certain circumstances specified in the Lawyers and Conveyancers Act 2006, the Fidelity Fund does not cover a client for any loss relating to money that a lawyer is instructed to invest on behalf of the client.