

STANDARD TERMS OF ENGAGEMENT

These Standard Terms of Engagement ("**Terms**") apply in respect of all work carried out by us for you, except to the extent that these terms are inconsistent with any other agreement between us and you (whether generally or in respect of specific instruction) then that other agreement prevails over these terms.

1. **Authority**

1.1 We have the usual authority of a lawyer to act on your behalf in relation to each instruction we accept. This includes your authority, where reasonable, to incur expenses; engage law firms in other regions or jurisdictions; and engage external barristers or experts.

2. **Services**

2.1 The services we are to provide for you are outlined in our engagement letter.

2.2 Before we can finalise an engagement letter we may need to seek further information from you to ensure that no conflict arises. We may advise you if such a conflict exists which we will seek to resolve, if resolvable, in accordance with our conflict protocols.

2.3 We will comply with the NZLS Rules in respect of conflicts of interest.

3. **Scope of Services**

3.1 Our duties are owed to our client and any advice given shall be for the benefit of our client alone and unless otherwise expressly agreed by us, or required by law, will not extend to any other person.

3.2 We do not purport to be experts in all fields of law and as such have your authority to, where reasonable, engage other law firms, barristers or experts to secure advice on particular matters from other lawyers.

3.3 We are only qualified to give advice on New Zealand law. If we do assist you in relation to matters governed by foreign law, we do so on the basis we do not accept responsibility in relation to your position under that foreign law.

4. **Financial**

4.1 **Fees:**

(a) Unless otherwise agreed with you in relation to a particular engagement, our fees will be determined taking into account the hourly rates of the personnel within our firm who have worked on the matter (which rates may change from time to time) as well as other relevant criteria approved by the New Zealand Law Society, including:

- (i) the skill, specialised knowledge and responsibility required;
- (ii) the value of any property or money involved;
- (iii) the importance of the matter to you;
- (iv) the complexity of the matters;
- (v) the results achieved;
- (vi) the urgency and circumstances in which the matter is undertaken;
- (vii) the possibility that the acceptance of a particular engagement will preclude engagement by other clients.

(b) If the engagement letter specifies a fixed fee, we will charge this for the agreed scope of our services. Work which falls outside that scope will be charged on an hourly rate basis. We will advise you as soon as reasonably practicable if it becomes necessary for us to provide services outside the agreed scope and, if requested, give you an estimate of the likely amount of the further costs.

(c) An estimate will be given when requested though this is a guide only based on our experience of similar matters.

4.2 **Disbursements and expenses:** In providing services we may incur disbursements or have to make payments to third parties on your behalf. These will be included in our invoice to you when the expense is incurred. We may require an advance payment for the disbursements or expenses which we will be incurring on your behalf.

We will also invoice you for a standard service charge to cover general office services provided by us (for example photocopying, faxes, telecoms charges, deliveries and postage) at no greater than 3.5% of our fee.

4.3 **GST (if any):** Is payable by you on our fees and charges.

4.4 **Invoices:** We will send interim invoices to you, usually monthly and on completion of the matter, or termination of our engagement. We may also send you an invoice when we incur a significant expense.

- 4.5 **Payment:** Invoices are payable within 14 days of the date of the invoice, unless alternative arrangements have been made with us. We may require interest to be paid on any amount which is more than 7 days overdue. Interest will be calculated at the rate of 2.5% above our firm's main trading bank's commercial overdraft rate as at the close of business on the date payment became due.
- 4.6 **Security:** We may ask you to pre-pay amounts to us, or to provide security for our fees and expenses. You authorise us:
- (a) to debit against amounts pre-paid by you; and
 - (b) to deduct from any funds held on your behalf in our trust account,
- any fees, expenses or disbursements for which we have provided an invoice.
- 4.7 **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, nevertheless you remain responsible for payment to us if the third party fails to pay us.
5. **Confidentiality**
- 5.1 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) to the extent required by law or by the Law Society's Rules of Conduct and Client Care for Lawyers.
- 5.2 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.
- 5.3 We will of course, not disclose to you confidential information which we have in relation to any other client.
6. **Termination**
- 6.1 You may terminate our retainer at any time.
- 6.2 We may terminate our retainer in any of the circumstances set out in the Law Society's Rules of Conduct and Client Care for Lawyers.
- 6.3 If our retainer is terminated you must pay us all fees due up to the date of termination and all expenses incurred up to that date.
7. **Retention of files and documents**
- 7.1 You authorise us (without further reference to you) to destroy all files and documents for this matter (other than any documents that we hold in safe custody for you) 7 years after our engagement ends, or earlier if we have converted those files and documents to an electronic format.
8. **Limitation of Liability**
- 8.1 Unless otherwise agreed with you in writing, our total aggregate liability arising out of or in connection with the performance or contemplated performance of the engagement shall in no event exceed 400% of the price paid or payable by you within the 12 month period immediately before the date of the event giving rise to your claim.
9. **Duty of Care**
- 9.1 Our duty of care is to you and not to any other person. Before any other person may rely on our advice, we must expressly agree to this.
10. **Trust Account**
- 10.1 We maintain a trust account for all funds which we receive from clients (except monies received for payment of our invoices). If we are holding significant funds on your behalf we will normally lodge those funds on interest bearing deposit with a bank. In that case we may charge an administration fee of 5% of the interest derived.
11. **Intellectual Property**
- 11.1 We retain all ownership rights in all intellectual property of any kind created by us for you. You may not reproduce our intellectual property or provide it to a third party without our express consent.
12. **General**
- 12.1 These Terms apply to any current engagement and also to any future engagement, whether or not we send you another copy of them.
- 12.2 We are entitled to change these Terms from time to time. Our current terms at any particular time will be available on our website. The change will bind you in respect of any matters on which we accept instructions after publication of the change.
- 12.3 Our relationship with you is governed by New Zealand law and New Zealand courts have non-exclusive jurisdiction.
13. **Independent Advice**
- 13.1 These terms modify some of the duties owed by lawyers to their clients. We recommend that you seek independent legal advice before accepting them.