



## 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 we otherwise agree with you in writing.

Your continued instructions will constitute acceptance of these terms – there is no need for you to sign them. If you have any questions about these terms, please contact the solicitor responsible for your file.

### 1 Services

- 1.1 The services we are to provide for you are outlined in our engagement letter.
- 1.2 Where appropriate, we may delegate your instructions to a solicitor or professional other than the solicitor originally instructed.

### 2 Communications

- 2.1 We will report to you periodically on the progress of any matter and will always try to keep you informed of any unexpected delays or changes in the character of the work being undertaken. You are welcome to request a progress report at any time.
- 2.2 If you provide us with a facsimile number or email address, then we may fax or email our communications to you without first letting you know, unless you tell us otherwise.
- 2.3 From time to time we may send you information such as client newsletters, updates and other material that may be relevant or of interest to you. These may be sent in electronic form to the electronic address details provided by you. Unless you tell us otherwise, we will assume that you agree to receive such information. If you would prefer not to receive such information, please let us know.

### 3 Financial

- 3.1 **Fees:**
  - a Our fees are calculated in accordance with the guidelines set by the New Zealand Law Society and take into account factors including:
    - i The time and labour expended.
    - ii The skill, specialised knowledge and responsibility required to perform the services properly.
    - iii The importance of the matter to you and the results obtained.
    - iv The urgency and circumstances in which the matter is undertaken and any time limitations imposed, including those imposed by you.



- v The degree of risk assumed by us in undertaking the services including the amount and value of any property involved.
- vi The complexity of the matter and the difficulty or novelty of the questions involved.
- vii The experience, reputation and ability of the lawyer.
- viii The possibility that the acceptance of the particular retainer will preclude employment of the lawyer by other clients.
- ix Whether the fee is fixed or conditional (whether in litigation or otherwise).
- x Any quote or estimate of fees that we have given you.
- xi Any fee agreement (including a conditional fee agreement) entered into between us and you.
- xii The reasonable costs of running a practice.
- xiii The fee customarily charged in the market and locality for similar legal services.
- b Where we have been instructed jointly by two or more people, each person shall be jointly and severally liable for the payment of fees.
- c Our fees are payable by you regardless of whether the matter is resolved by settlement or by hearing, and regardless of whether you achieve the result that you want.
- d In any litigation, costs are ordinarily payable by the unsuccessful party to the successful party. Costs include legal costs, any disbursements, and experts' fees. Costs are usually calculated on a scale set by the Court, which is designed to allow the successful party to recoup approximately two thirds of its legal costs. However, the Court has the discretion to make any award of costs that it chooses. It may award full costs to the successful party, or it may not award any costs.
- e We will provide a fee estimate if you request one. We will endeavour to ensure that any estimate of our fee is realistic, and where appropriate, we will state any significant assumptions in making the estimate. However, any estimate is only a guide, and the amount of the final fee may be more or less depending on all the actual circumstances. Our fee estimate may be stated as a range. **We emphasise that any fee estimate is not a quote, nor a cap on what may be charged.**
- f 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.
- g Where our fees are calculated on an hourly basis, the hourly rates are set out in our engagement letter. The differences in those rates reflect the experience and specialisation of our professional staff. Time spent is recorded in 6 minute units, with time rounded up to the next unit of 6 minutes.

### 3.2 Disbursements and expenses:



- a 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.
- b Common disbursements are Court filing fees, process server fees, Companies Office and Land Titles Office search and registration fees, e-dealing fee, courier, faxes, toll calls, photocopying and agency charges. Disbursements may also include external Counsel's or mediator's fees. Office service charges will be charged for forms, stationery, postage and printing, computer services, faxes and the like. Office service charges are generally established by reference to a scale of charges based on the fee value of the invoice.

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

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

3.5 **Payment:**

- a Invoices are payable in full within 14 days of the date of the invoice, before we undertake or provide any further work, services or representation, unless alternative arrangements have been made with us. Our accounts are marked "E & O E" standing for errors and omissions excepted.
- b 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 12% above our firm's main trading bank's 90-day bank bill buy rate as at the close of business on the date payment became due.
- c For conveyancing matters, payment of our legal fees and expenses is required on settlement of the transaction. **For property and financing transactions, you must credit our trust account with the ASB Bank before 10.00 am on the day of settlement with cleared funds for the correct amount.**
- d Part payment of an account will not be accepted as partial settlement of the full amount of the account unless we agree in writing to accept the reduced amount as full settlement.
- e Should you have difficulty in meeting any of our accounts, please contact us without delay so that we may discuss whether a payment arrangement is appropriate.
- f **Our firm reserve the right to stop all work on your matter, or terminate our representation in a manner which is consistent with our obligations, should the payment of invoice is not received after the due date of 14 days from the date of the invoice or alternative arrangement is unable to be reached.**
- g You will be liable for all costs associated with the collection and recovery of your overdue and unpaid account (including costs on a solicitor/client basis and any credit agency fees).

3.6 **Retainer/Security:**



- a We may ask you to pre-pay a retainer amounts to us, or to provide security for our fees and expenses. You authorise us:
  - i to debit against amounts pre-paid by you; and
  - ii to deduct from any funds held on your behalf in our trust accountany fees, expenses or disbursements for which we have provided an invoice.
- b We shall be entitled to ask you to make further retainer payments from time to time as the matter advances and if the earlier retainer payment has been used. Any remaining balance of the retainer will be returned to you upon the completion of our services.

3.7 **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.

## 4 Confidentiality

- 4.1 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.
- 4.2 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.
- 4.3 We will of course, not disclose to you, confidential information which we have in relation to any other client.

## 5 Privacy

- 5.1 In order to provide services to you, and as part of our continuing effort to improve the services we offer, we maintain a database of basic client information. From time to time we may request that you confirm the accuracy of the information we hold about you. Such information will be used by us, our staff and agents for the purposes of acting on your behalf.
- 5.2 It may be necessary to obtain information on your behalf from other people, companied or institutions. One common instance is that we may require you to confirm the local council rate details on the sale of your property.
- 5.3 If you are an individual, you have a right to access information which we hold about you and may request correction of such information.



- 5.4 We may ask you to show us documents verifying your identity. We are legally required by the Financial Transactions Reporting Act 1996 and the procedures for electronic registration of land transactions to take a copy of documents verifying the identity of the client in some transactions.

## **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. Example include but not limited to:
- a Any failure to pay an account rendered or due to any delay in payment. Non-payment of our fees or a retainer may result in a delay in our services to you or withdrawing our representation.
  - b If you do not provide us with instructions promptly or you act against our advice/in a way, we believe is inconsistent with our obligations as lawyers.
  - c If at any time after accepting your instructions, we discover that we are acting/have acted for another client whose interests materially conflict with your own we will immediately advise you. In order to protect your interests, we may then be required to withdraw from acting for you.
- 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 Conflicts of Interest**

- 8.1 We have procedures in place to identify and respond to 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 Law Society's Rules of Conduct and Client Care for Lawyers.

## **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). Payment out of the trust account will be made to you or to others with your authority. Written authorisation from you may be required where payment is to be made to a third party.
- 10.2 A full record of the trust account is kept at all times. A statement of trust account transactions detailing funds received and payments made on your behalf will be provided at any time upon your request.
- 10.3 If we are holding significant funds on your behalf, we will normally lodge those funds on interest bearing deposit with a trading bank registered under section 69 of the Reserve Bank Act 1989. In that case we will charge an administration fee of 5% of the interest derived after deduction of withholding tax.
- 10.4 It is the general policy of the firm that any deposit over \$20,000 to which we reasonably believe will remain on hold in your trust account for over 2 weeks, we will deposit the amount to an Interest Bearing Deposit Account under your name. Should you wish to opt out of such transfer, please inform us in writing when making the said deposit.
- 10.5 In accordance with the Lawyers and Conveyancers Act 2006, monies held in our trust account but which are not placed on call or term deposit will not earn you interest.
- 10.6 If you request a payment from our trust account to be made by direct credit to your account, we will require evidence of the account number in one of the following forms:
- a Original or faxed bank deposit slip.
  - b Signed hand written bank deposit slip.
  - c Signed letter from you.
  - d Copy of cheque or bank statement.
  - e Letter from your bank.
- 10.7 Because of audit requirements, text messages and emails are insufficient as evidence of your account number.

## **11 General**

- 11.1 These Terms apply to any current engagement and also to any future engagement, whether or not we send you another copy of them.
- 11.2 We are entitled to change these Terms from time to time, in which case we will send you amended Terms.
- 11.3 Our relationship with you is governed by New Zealand law and New Zealand courts have non-exclusive jurisdiction.