

## STANDARD TERMS OF ENGAGEMENT

### 1. GENERAL

- 1.1. These Standard Terms of Engagement (**Terms**) apply to any current engagement and also any future engagement whether or not we send you another copy.
- 1.2. We are entitled to change these Terms at any time. We will publish the changed terms on our website. The changed terms will bind you in respect of any matter on which we accept instructions after the publication of the change.

### 2. SERVICES

- 2.1. The services that we provide for you 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 (**Services**).
- 2.2. In order to provide you with efficient and cost-effective advice and service it may be that part of all of your instructions will be delegated to other professionals in our firm.

### 3. APPLICATION

- 3.1. These Terms apply to our relationship with you and continuing to instruct us will be deemed to be acceptance of these terms. You do not need to sign these Terms.

### 4. OUR ADVICE, DUTY OF CARE AND CONFLICTS OF INTEREST

- 4.1. **Advice:** Any advice given by us is:
  - a. solely for your benefit and it may not be relied on by any other person unless we agree to that in writing;
  - b. not to be disclosed, referred to or used other than for the purpose for which it was sought;
  - c. not to be made public or published;
  - d. limited to matters stated therein;
  - e. limited to and governed by New Zealand law; and
  - f. subject to changes in the law after the date it is given.
- 4.2. We are not responsible for advising you on any taxation matters.
- 4.3. Our name and advice may not be used in connection with any offering document, financial statement, report or other public document without our prior written consent.
- 4.4. Our advice is opinion only, based on the facts known to us, and on our professional judgment, 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.
- 4.5. When our instructions on a matter are completed, our representation of you in respect of that matter ends. We are not obliged to notify you of any subsequent change of law or to provide any further services related to that matter.

- 4.6. 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.
- 4.7. **Duty of care:** Our duty of care is to you and not to any other person. We owe no liability to any other person or party 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.
- 4.8. **Conflicts of interest:** We will protect and promote your interests to the exclusion of the interest of third parties and ourselves as required by the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 (**Rules**). We have procedures in place to identify and respond to actual and potential conflicts of interest. If such a situation arises, we will advise you and adhere to the requirements of the Rules which may mean that we cannot act for you on a particular matter. If that happens, if you require, we will attempt to assist you in finding another lawyer who can act for you.

## 5. COMMUNICATIONS

- 5.1. We will obtain your contact details from you including your email address, postal address, residential 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.
- 5.2. 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.
- 5.3. You agree that we may provide you with other information that may be relevant to you such as newsletters or information bulletins. At any time you can request that we stop sending you such information.

## 6. FINANCIAL

- 6.1. **Fees:** The basis upon which we will charge our fees is set out in our letter of engagement:
  - a. If our letter of engagement specifies a fixed fee, we will charge that amount for the Services. Work which falls outside the scope of the Services will be charged on an hourly basis. We will advise you as soon as reasonably practicable if it becomes necessary for us to undertake work outside the defined scope of the Services, and, if requested, we will give you an estimate of the likely additional cost.
  - b. Where our fees are calculated on an hourly rate, the rates people who will undertake the work are set out in our letter of engagement. Any differences between those rates reflects the differing levels of experience and specialisation of our staff. Time spent is recorded in six-minute units.
  - c. Hourly fees may be adjusted (upwards or downwards) to ensure our fee is fair and reasonable taking account of matters such as the result achieved, urgency, the level of skill, complexity, responsibility and specialist knowledge required. Full details of the relevant fee factors are set out in rule 9 of the Rules.
- 6.2. **Disbursements:** Disbursements are expenses incidental to the Services that need to be paid to third parties. Examples include search and registration fees due to *Land Information New Zealand*; Ministry of Justice court filing fees; our travel costs; and courier fees. You authorise us to incur such costs reasonably necessary to provide the Services to you. They will be charged

separately from our fees and will be itemised on our invoices. Note, if we are required to expend significant amounts on disbursements or other external costs, we may ask you to pay these in advance or we may render a separate disbursement invoice to you.

- 6.3. **Offices services fee:** Our invoices will usually include an office services fee of \$75.00-\$140.00 plus GST (depending on the nature of the matter) to cover out of pocket costs such routine travel, photocopying, printing, toll charges and the like which are not included in our fee and are not charged as disbursements.
- 6.4. **Retainer:** in some instances, before we commence work, we may require a retainer to be paid to our trust account as an advance of our fees. If a retainer is required, the sum will be held in our trust account until we issue an invoice or invoices, whereupon the sum or parts thereof will be deducted from the retainer. We will not deduct any amount form the retainer without first issuing an invoice to you in advance. If any funds are remaining at the point where our relationship with you is terminated, we will promptly refund any balance to you. If our engagement is terminated before an invoice has been rendered by us but where work has been completed, we are still entitled to issue an invoice for that completed work and to deduct those fees and any disbursements we have paid to third parties from funds held for you before we return any balance to you.
- 6.5. **GST:** Our invoices will usually attract GST and if that is the case, it is payable by you.
- 6.6. **Currency:** All invoiced amounts are payable in New Zealand dollars, unless specified or we agree otherwise.
- 6.7. **Invoices:** At regular intervals (usually monthly) we will provide you with an invoice in respect of our work for you. We may send you invoices more frequently when we incur a significant expense or undertake a significant amount of work over a shorter period. We will also issue an invoice on completion of your matter, or on completion of our representation of you on a matter.
- 6.8. **Payment:** Our invoices are payable within 7 days of the date of the invoice unless alternative arrangements have been made with us.
  - a. You authorise us to deduct our fees and other expenses from funds held in our trust account on your behalf on provision of an invoice to you, unless those funds are held for a particular purpose.
  - b. If you have difficulty paying any of our accounts, please contact us promptly so that we can discuss payment arrangements.
  - c. If your account is overdue, we may:
    - i. require interest be paid on any amount which is more than 14 days overdue, calculated at the rate of 5.00% above the overdraft rate that our firm's main trading bank charges us 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. require an additional payment of fees in advance or other security before recommencing work;
    - iv. retain custody of any of your property (including documents or files) until all unpaid invoices are paid in full;
    - v. 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 party engaged by us to recover funds from you. You authorise us to provide

information about you to any party we engage to pursue recovery of any account overdue to us.

- 6.9. **Fees and disbursements in advance:** We may ask you to pre-pay amounts to us or to provide security for our fees and expenses. We may do this on reasonable notice at any time. Any money paid will be held in our trust account until we have issued an invoice to you.
- 6.10. **Estimates:** You may request an estimate of our fee for the Services at any time. Our estimate (which may include a minimum – maximum range) is not a quote. Any significant assumptions included in the estimate will be stated and you must tell us if those assumptions are incorrect or change. We will inform you if we are likely to exceed the estimate. Unless specified, an estimate excludes GST, disbursements and office services charges.
- 6.11. **Payee liability:** Where a client comprises more than one natural person and/or multiple entities, all individuals and/or entities are jointly and severally (individually) responsible for paying all amounts owing to us.
- 6.12. **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.
- 6.13. **Trust accounting:** We operate a trust account. All money received from you or on your behalf will be held to your credit in our trust account:
- a. Payments out of our trust account will be made either to you or to others with your authority. Written authorisation (and if we are acting for more than one of you, from all of you) will be required when payment is to be made to a third party. Before making a payment to another account we may require verification of the account details by provision of (for example) a copy of a deposit slip, cheque or bank statement showing the account holder's name and the account number.
  - b. A full record of our trust account is kept at all times. A statement of trust account transaction detailing funds received and payments made on your behalf will be provided to you periodically and at any time upon your request.
  - c. Unless it is not reasonable or practicable to do so, when we hold significant funds for you for more than a short period of time we will place them on call deposit with a bank registered under section 69 of the Reserve Bank of New Zealand Act 1989, subject to you having satisfactorily completed any request for information relating to the deposit or certification required by the bank. Interest earned from call deposits (less withholding tax and our administration fee of 7.5% of the interest) will be credited to you.

## 7. CONFIDENTIALITY AND PERSONAL INFORMATION

- 7.1. **Confidentiality:** We will hold in the strictest of confidence all information concerning you and your affairs that we acquire while acting for you. We will not disclose any of this information to any other person except as expressly or impliedly agreed by you or as required or permitted by law.
- 7.2. **Personal information:** 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 any issues we believe may be relevant to you.
- 7.3. **Authority:** You authorise us to disclose your personal information to third parties to the extent necessary for the performance of the Services. You also consent to disclosure of your personal

information to third parties such as credit agencies to perform a credit reference or to undertake credit management or collection if it is reasonable to do so.

## **8. IDENTITY VERIFICATION AND OTHER COMPLIANCE**

- 8.1. **Verification of identity (and source of wealth):** The Financial Transactions Reporting Act 1996 and other legislation applicable to our relationship with you requires us to collect from you and to retain information to verify your identity. We may therefore ask you to show us documents verifying your identity. We may retain copies of these documents. We may perform other checks to verify your identity and also the source of any funds associated with any transactions to which the Services relate as we consider to be required by law. We may also be required to obtain similar information about or from people acting on your behalf, beneficial owners and controlling persons. We may not be able to begin acting (or continue to act) until we have all the necessary information.
- 8.2. To ensure our compliance and yours, we may be required to provide information about you, people acting on your behalf and other relevant people to third parties such as government agencies. There may be circumstances where we are not able to tell you (or such people) if we do provide that information. Please ensure that you and the other people described are aware of and consent to this.
- 8.3. It is important to ensure all information provided to us is accurate. If the information required is not provided or is considered by us to be potentially inaccurate, misleading or in contravention of any law, we may terminate or refuse to enter into an engagement.
- 8.4. **Other compliance:** We are obliged to comply with all laws applicable to us in all jurisdiction, including (but not limited to) Anti-money laundering (**AML**) and countering financing of terrorism (**CFT**) laws; and laws relating to tax and client reporting and withholdings.

## **9. DOCUMENTS, RECORDS AND INFORMATION**

- 9.1. We will keep a record of all important documents which 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 such as in the case of wills and deeds).
  - b. At any time, we may dispose of documents which are duplicates or which are trivial (such as emails which do not contain substantive information) or documents which 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.
- 9.2. At your request, we will provide you with copies of all documents you are entitled to pursuant to the Privacy Act 2020 or any other law. We may charge you our reasonable costs for doing this.
- 9.3. Where we hold documents that belong to a third party (or you with a third party) you will need to provide us with that party's written authority to uplift or obtain a copy of that document.
- 9.4. Unless you instruct us in writing otherwise, you authorise us and consent to us (without further reference to you) to destroy (or in the case of electronic records to delete) all files and documents in respect of the Services 7 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.

9.5. 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.

#### **10. CONSUMER GUARANTEES ACT**

10.1. You agree that if you are instructing us to do work for the purposes of a business as defined in the Consumer Guarantees Act 1993 the provisions of that legislation do not apply to this agreement.

#### **11. PROFESSIONAL INDEMNITY INSURANCE**

11.1. We hold professional indemnity insurance that exceeds the minimum standards specified by the New Zealand Law Society.

#### **12. LIMITATIONS ON OUR OBLIGATIONS OR LIABILITY**

12.1. To the extent allowed by law, our aggregate liability to you (with or in contract, tort, equity or otherwise) in connection with our Services is limited to the amount available to be payable under the professional indemnity insurance held by this firm.

#### **13. TERMINATION**

13.1. You may terminate our retainer at any time.

13.2. 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.

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

13.4. For immigration matters, we reserve the right to terminate services with you under the occurrence of any of the following:

- a. if you withdraw your application for any reason at any stage of the process; and/or
- b. if you provide incorrect or misleading information; and/or
- c. if you fail to provide documents or information required and/or requested; and/or
- d. if you fail to respond within a specified timeframe; and/or
- e. if you provide forged or falsified documents or bogus documents; and/or
- f. if you take any action which is contrary to the interest of your application; and/or
- g. if you fail to inform us of changes to your situation, whether or not you consider the changes in your circumstances to have an impact on your applications.

#### **14. COMPLAINTS**

14.1. If you have a complaint about our services or charges, please advise the person at our firm who has overall responsibility for your work as noted in our letter of engagement. We will endeavour in good faith to resolve the matter in a way that is fair to all concerned. If we have been unable to resolve a complaint or concern you may have, you may contact the New Zealand Law Society

for further guidance by phoning 0800 261 801, emailing [complaints@lawsociety.org.nz](mailto:complaints@lawsociety.org.nz) or visiting [www.lawsociety.org.nz](http://www.lawsociety.org.nz).

**15. GOVERNING LAW**

- 15.1. Our relationship with you is governed by New Zealand Law and any dispute concerning these terms or our work for you is to be resolved in New Zealand courts under New Zealand law.