

## **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:

### **1. Servicing**

- 1.1. The services which we are to provide for you are outlined in our letter of engagement.

### **2. Financial**

#### **2.1. Fees:**

- (a) The fees we will charge, or the manner in which they will be arrived at, are set out in our letter of engagement. 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.
- (b) If the letter of engagement specifies a fixed fee, we will charge this for the agreed scope of our services as long as the matter is consistent with the description and instructions given by you. Work, which falls outside that scope, will be charged on an hourly rate basis or at our option at a fee, which is comparable to, and reflective of the service performed within the guidelines that we operate under. We will advise you as soon as reasonably practicable if it becomes necessary for us to provide services outside the agreed scope or additional services due to any inconsistency in description or instruction and if requested, give you an estimate of the likely amount of the further costs.

- 2.2. 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 expense which we will be incurring on your behalf. Unless otherwise agreed with you, we will also charge for time spent travelling in respect of this matter at the hourly rates stated in our letter of engagement, unless a lower rate is agreed in writing between us.

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

- 2.4. Invoices: We may elect to 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.

- 2.5. Payment: All invoices are payable within 14 days of the date of the invoice, unless alternative arrangements have been made with us. Payment may be made by cash, cheque, internet banking or Eftpos / Credit Card. 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 8% 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. You agree to pay any interest that is demanded pursuant to this provision.
- 2.6. Security: We may ask you to pre-pay an amount to us, or to provide security for our fees and expenses and interest. You authorise us at any time:
- (a) to debit against amounts pre-paid at any time; and
  - (b) to deduct from any funds held on your behalf in our trust account provided we raise the appropriate invoice before completing the debit or deduction.
- 2.7. 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 primarily responsible for payment to us for such fees and expenses and payment to us must be made on demand. We shall not be responsible for ensuring any third party makes any such reimbursement. Any legal action required to attempt to recover such fees and expenses shall be the subject of a separate engagement and for which we shall be entitled to payment for such service.

### **3. Confidentiality**

- 3.1. 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) as agreed by you; and/or
  - (b) to the extent necessary or desirable to enable us to carry out your instructions; and/or
  - (c) to the extent required by law or by the Law Society Rules of Conduct and Client Care for Lawyers.
- 3.2. Confidential information concerning you will as far as practicable be made available only to those within our firm who are providing legal services to you.
- 3.3. We will of course not disclose to you confidential information which we have in relation to any other client.

### **4. Contacting us / Contacting You**

- 4.1. You can contact us by telephone, e-mail, or post. These details are contained on the front page of this letter.
- 4.2. In the event you cannot make contact with us by telephone, please leave us a message and we will return your call as soon as possible.
- 4.3. We will contact you using the details that you provide to us (including those contained in our New Client Form) unless you instruct us otherwise in writing. Please therefore check the details that you provide to ensure that you are happy for us to make contact with you using

any of the contact details provided. If you need to change these contact details at any time, please let us know and we will update your contact details accordingly.

## **5. Termination**

- 5.1. You may terminate our retainer at any time.
- 5.2. 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, for example (but not limited to), you failing to provide instructions to us in a sufficiently timely way.
- 5.3. 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.

## **6. Important Note About Preservation of Documents**

- 6.1. As soon as a legal proceeding is reasonably contemplated, a party or prospective party must take all reasonable steps to preserve documents that are, or are reasonably likely to be, discoverable in the proceeding. Without limiting this, documents in electronic form which are potentially discoverable must be preserved in readily retrievable form, even if they would otherwise be deleted in the ordinary course of business.
- 6.2. "Documents" is a wide term and can include (but is not necessarily limited to) all paper documents, electronic documents (for example, Word, Excel, PowerPoint and PDF), e-mails, computer files, data, draft documents, file notes, diaries, workbooks, duplicates of other documents, handwritten notes, voicemails or other recordings.
- 6.3. It follows from the above that, you are required to preserve all documents that could relate to a current or possible future legal proceeding. If in doubt about a document, preserve the document and talk to us first.

## **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 (or such longer period as we may consider appropriate or as otherwise required by law) after our engagement ends, or earlier if we have converted those files and documents to an electronic format.

## **8. Lien**

- 8.1. In circumstances where we have completed work for you, but have not been paid, we have the right to retain the original documents and correspondence on the client's file until all outstanding fees, disbursements and other expenses have been paid. However, if you instruct another lawyer to act on the matter, and the matter in issue is urgent, we will make the documents available to your new lawyer on receipt of an undertaking from the new lawyer that our fee will be paid in priority to the fee of the new lawyer.

## **9. Conflicts of Interest**

- 9.1. 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 processes set out in the Law Society's Rules of Conduct and Client Care for Lawyers.

## **10. Duty of Care**

- 10.1. 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. We therefore do not accept responsibility or liability to any third party who may rely on our advice, unless we have expressly agreed to that in writing.

## **11. Trust Account**

- 11.1. We maintain a trust account for all funds which we receive from clients (inclusive of payment for fees, disbursements and interest) which we may, subject to certain requirements, be entitled thereafter to transfer to our account. 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 will charge an administration fee of 5% of the interest derived.

## **12. General**

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