

## CLIENT INFORMATION AND TERMS OF ENGAGEMENT

### CLIENT INFORMATION

#### Introduction

This document contains:

- Information I am required to give you by the Rules of Conduct and Client Care for Lawyers of the New Zealand Law Society (the "Law Society Rules"); and
- My standard terms of engagement ("Terms") which govern the relationship between you and us (subject to any other agreement between us).

#### 1. INFORMATION REQUIRED BY THE LAW SOCIETY RULES

##### Fees

My hourly rate, the basis on which fees will be charged, and when payment of fees is to be made, are set out in my reporting letter which form part of these terms of engagement.

##### Complaints

If you have a complaint about me or my service's you may refer your complaint to my office manager or myself as the person who has overall responsibility for your work.

You may also make a complaint to the complaints service established by the New Zealand Law Society. To do so, you should contact the New Zealand Law Society at PO Box 5041 Lambton Quay, Wellington 5145, or telephone 04 472 7837.

##### Insurance

I hold indemnity insurance to standards specified by the New Zealand Law Society.

##### Fidelity Fund

The Lawyers Fidelity Fund established by the New Zealand Law Society is available to reimburse people who suffer loss by reason of the theft by a lawyer of money or other valuable property entrusted to the lawyer. However, I do not operate a trust account, and so do not hold money on clients' behalf.

## **Client Care and Service**

The New Zealand Law Society Client Care and Service Information is set out below.

Whatever legal services your lawyer provides, he or she must:

- Act competently, in a timely way, and in accordance with any instructions received and arrangements made.
- Protect and promote your interests and act for you free from compromising influences or loyalties.
- Discuss with you your objectives and how they should best be achieved.
- Provide you with information about the work to be done, who will do it and the way the services will be provided.
- Charge you a fee that is fair and reasonable and let you know when you will be billed.
- Give you clear information and advice.
- Protect your privacy and ensure appropriate confidentiality.
- Treat you fairly, respectfully and without discrimination.
- Keep you informed about the work being done and advise you when it is completed.
- Let you know how to make a complaint and deal with any complaint promptly and fairly.

The obligations lawyers owe to clients are described in the Law Society Rules. Those obligations are subject to other overriding duties, including duties to the courts and to the justice system.

If you have any questions, please visit [www.nz-lawsoc.org.nz](http://www.nz-lawsoc.org.nz) or call 0800 261 801.

## **2. TERMS OF ENGAGEMENT**

These terms of engagement are the standard terms on which I provide legal and related services to clients.

The purpose of these terms of engagement is to set out my professional relationship with you in accepting and actioning your instructions.

### **Agreement**

These standard terms will apply whenever you engage me to act for you, subject to any different or additional terms agreed in writing. You accept and agree to these standard terms by continuing to engage with me.

You do not need to sign any formal documentation to indicate your acceptance. If you have any comments or questions about these terms or any related matters, please contact us as outlined below. I welcome your feedback.

### **Scope of my role**

I will represent and advise you on all legal matters that properly fall within the scope of your instructions. I will normally set out my understanding of those instructions in an engagement or initial reporting letter. If you have any comments on what I say, please let me know as soon as you can.

You may limit or expand the scope of your instructions at any time, although I may need to undertake a conflict check before accepting any substantial expansion.

I will act in accordance with your instructions and any applicable professional or legal obligations. I will use all due care and skill in doing so.

My duties are owed to you. Unless otherwise agreed in writing or required by law, those duties will not extend to others, including for example associated parties such as shareholders or related companies, directors or employees, or family members. If any other parties wish to retain me, they should do so by separate agreement.

My advice is given for your benefit and in your interests. If any other parties wish to rely on the advice I give you, they can only do so if both you and I agree in writing. Similarly, my name and opinions may not be used in connection with any prospectus, financial statement or other public document without my written consent.

When your instructions on a matter are completed, my representation will end. I will only advise you further on issues arising from the matter (e.g. implementation and other dates or changes in relevant law or regulations) if you specifically engage me to do so. I will not be under any obligation to continue to provide advice.

### **Confidentiality**

For me, client confidentiality is of paramount importance. I do not disclose any confidential information obtained as a result of acting for a client unless required or authorised by that client, or by law or the Law Society Rules.

Any information that you give me is treated as confidential information and is only passed on to persons who are actually working on your matter.

I may also need to disclose this information to:

- My service entities or agents; and
- Other organisations, including other parties in the matter, and government agencies responsible for processing transactions;

but only as needed to carry out your instructions and my professional duties (including my duties as explained in these terms) or as required by law.

I may collect personal information from your instructions and while acting for you. This will include personal information about people who are employees, directors or principals of yours. I ask you to help us to make sure that these people are aware that my acting for you may involve collection of personal information about them.

If I do not collect this personal information, I may not be able to carry out your instructions. In most cases anyone can request access to the personal information I hold about them.

I may also use contact details and other information (e.g. subjects you are interested in) to keep you informed about developments in relevant areas of law, other legal services or seminars I offer. If you do not want your personal information used for this purpose, please let me know. In the event that I send you marketing information electronically, I will always provide an “opt out” option to you.

### **Fees and other charges**

I believe that it is important that my clients understand the basis upon which my fees are calculated, the times when fees and disbursements will be invoiced, and my expectations for payment. That information is set out in these terms of engagement.

My fees are charged on the basis of the Law Society Rules, which require that they be fair and reasonable for the services provided.

Generally, my fees reflect the time I spend on a matter, charged at my then current hourly rates, and adjusted where appropriate to reflect other factors. Those factors may include the specialised knowledge, skills or responsibility required, the amounts involved, the importance of the matter, urgency and the results achieved.

I can provide estimates of the likely fees based on my experience with similar matters. Estimates are given as a guide only and not as a fixed quotation. I can also inform you periodically of the level of fees incurred or inform you when fees reach a specific level.

From time to time I can agree a fixed quotation for a piece of work. The scope of this will be agreed in writing with you. GST is also charged as and when required by law.

I also charge for general office services and for disbursements incurred on your behalf:

- General office services include photocopying, printing, facsimiles, telephone communications, deliveries, routine online searches and inquiries and similar. These are charged at a standard rate equal to 5% of my fees.
- Disbursements include out-of-pocket expenses such as travel and accommodation costs, registration and filing costs, court charges, fees of agents, experts and other professionals and similar. These are charged on at the amount charged to me.

For a variety of reasons, some instructions are not completed. If this occurs, I will charge you for the work undertaken and costs incurred up to the time of termination.

In some circumstances, I may be required to incur additional time or expenses following the completion or termination of a matter. I will charge for this in the normal way.

I am happy to discuss any aspect of my fees and charges with you at any time.

### **Billing and Accounts**

I find that regular billing gives much better control for my clients and myself over the progress and cost of legal work, and it assists with budgeting and cash flow planning. Accordingly, invoices will normally be issued on a monthly basis for current legal work. I also issue an account on completion of each matter.

Invoices are payable in full on receipt unless agreed by prior written arrangement. Please raise any queries you have about any invoice within 14 days of receiving it, otherwise it is expected that it is accepted and due for immediate payment.

If an account is not paid promptly, I may either or both:

- Cease to do any further work, and retain custody of your papers or files, until all accounts are paid in full; and
- Charge interest at the bank interest overdraft rate current at the time (approximately 10% per annum) on any amount outstanding one month after the date of the account.

When funds are held on your behalf following settlement of a transaction the amount due in respect of our fees and charges will be deducted from those funds unless we agree to some other arrangement.

### **Payment in advance**

I may ask you for a payment in advance for out-of-pocket expenses payable to third parties on your behalf and/or as security for professional fees.

This money will usually be held in my instructing solicitor trust account and will be used to pay:

- Any charges as they are due; and
- My fees, immediately after I send you my account.

I will provide you with a statement showing you how this money has been spent.

### **Conflicts**

Given the size of the New Zealand market, I am often asked to act for clients whose commercial and/or legal interests conflict. I have developed policies and procedures for dealing with these issues, and I will comply with the Law Society Rules in relation to them.

- a. **Commercial conflict**

I may accept instructions from other clients or potential clients operating in the same or competing markets and whose commercial interests conflict with your own, provided those instructions:

- Are not substantially related to any active matter on which I am acting for you; and
- Do not involve confidential information I have obtained from you.

**b. Legal conflict**

If a legal conflict of interest arises, in relation to any other matter on which you have instructed me, between your interests and those of any other client for whom I am also acting, I will contact and consult with you as soon as possible.

**c. Representation**

If I cease to act for you or have not been instructed by you on a matter, I may act for other clients whose interests are conflict with your own, provided that:

- I do not hold confidential information belonging to you that is relevant to the matter; or
- I have taken steps to maintain the confidentiality of your information; and
- I comply with the Law Society Rules.

If I am unable to act for you on a particular matter because of a conflict of interest, that will not prevent me from acting for you on other matters.

**Electronic Communications**

Unless otherwise agreed with you, I will communicate with you and others at times by electronic means. These communications can be subject to interference or interception or contain viruses or other defects (“corruption”). I do not accept responsibility and will not be liable for any damage or loss caused in connection with the corruption of an electronic communication.

If you have any doubts about the authenticity of any communication or document purportedly send by my office, please contact me immediately.

**External information and public records**

I often have to obtain and rely on external information or public records (eg, government agencies or registries) to carry out your instructions. This information may not always be accurate or complete.

I do not accept responsibility and will not be liable for any direct or indirect damage or loss caused by errors or omissions in external information.

**Termination**

You may terminate our engagement at any time by giving appropriate notice. I may terminate our engagement in the circumstances permitted by the Law Society Rules.

### **Files and documents**

I retain the files I establish on a matter, and any documents you leave with me, for at least six years after completion or termination of the matter. In the interest of storage space and costs, this may be in digital form only. I may then destroy the files and documents (except documents which you have asked for them to be kept in long-term safe custody where they will be forwarded to your solicitors offices). Other arrangements can be made if you prefer.

If you uplift your files or other documents at any time, I may make copies of them at your cost before they are uplifted.

### **Law and jurisdiction**

These terms of engagement and any other agreement I have with you are governed by New Zealand law and are subject to the exclusive jurisdiction of the New Zealand courts.

### **How you can give me feedback**

I value feedback, positive or negative. Please do not hesitate to contact me if you have any comments, questions or complaints about these terms, or any related matter. I am happy to receive feedback from you by email, in writing, or by telephone.