

## Standard Terms and Conditions

These Standard Terms and Conditions ("**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 from time to time.

### **1 Services**

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

### **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 engagement letter.
- b If the engagement letter specifies a fixed fee, we will charge this for the agreed scope of our services. Our fixed fee will include GST and the disbursements stated on the Project Dashboard. Additional disbursements will be on-charged to you. Work which falls outside that scope of our fixed-fee 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. Where we provide a fixed fee for a project, and should that project not proceed, we will charge a fee that is fair and reasonable taking into account the work done to the date that the project was cancelled, up to the fixed fee quoted.
- c Where our fees are calculated on an hourly basis, the hourly rates that will apply are as follows (GST exclusive):
  - i Lawyer | Directors: \$350 / hr
  - ii Lawyers: \$250 / hr
  - iii Firm Associates: \$150 / hr

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. We will advise you when the accumulated time reaches \$2,000, and increments of \$2,000 thereafter, and will seek instructions on proceeding, provided that if it is necessary for us to continue to act in the absence of further instructions from you the matter considered, we shall be entitled to do so.

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 expenses which we will be incurring on your behalf.

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

- 2.4 **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.
- 2.5 **Payment:** Unless otherwise stated in the Project Dashboard, invoices are payable within 14 days of the date of the invoice. We will have the right to charge interest on any amount owing to us from time to time which is overdue, from the date the payment became overdue. That interest will be calculated at the rate of 14% per annum. You will also be liable, on a full indemnity basis, for all the costs of collection of any amounts outstanding from you from time to time, including legal costs on a solicitor-client basis.
- 2.6 **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.
- 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 responsible for payment to us if the third party fails to pay us.

### **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 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.
- 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 for you.
- 3.3 We will of course, not disclose to you confidential information which we have in relation to any other client.

### **4 Termination**

- 4.1 You may terminate our retainer at any time.
- 4.2 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. We may also terminate our retainer with you if you are dishonest with us or if you are overdue on any invoices due and owing to us.

4.3 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.

**5 Retention of files and documents**

5.1 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) at the expiry of 7 years after our engagement ends, or earlier if we have converted those files and documents to an electronic format.

**6 Conflicts of Interest**

6.1 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.

**7 Duty of Care**

7.1 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.

**8 Trust Account**

8.1 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. We will not charge a commission for our services in dealing with your funds.

**9 Important Dates**

9.1 It is up to you to ensure you do not overlook key dates that fall after our work for you is completed. For example, it is not our responsibility to record or to remind you of rent review dates, lease renewals and Personal Property Securities Register Financing Statement expiry dates.

9.2 It is also your responsibility to be aware of key dates relating to a purchase or a sale. It is your responsibility to instruct us when any conditions have been met, for instance an insurance or a finance condition.

**10 Limitations on our Obligations or Liability**

10.1 You agree that our liability is limited as follows:

- a Where we have to obtain and rely on external information or public records we do not accept any liability for direct or indirect loss caused by errors or omissions in such information.
- b The liability of our firm and all staff within our firm, howsoever arising shall be limited to the sum of \$1,500,000.00 in aggregate in respect of each matter upon which we have accepted your instructions to act.

c Our firm and all staff within our firm will not be liable to you for any loss of revenue or income, loss of profits, loss of opportunity or any indirect or consequential loss of whatsoever nature.

10.2 Our advice is given only for your benefit and in your interests; it is not to be relied on by third parties unless we agree in writing.

10.3 We do not accept liability for loss arising from non-receipt of any communication, including emails.

10.4 We do not give investment advice. Such advice should be obtained from a properly qualified Investment Adviser in terms of the Financial Advisers Act 2008.

## **11 Professional Indemnity Insurance and Lawyers' Fidelity Fund**

11.1 We hold professional indemnity insurance that meets or exceeds the minimum standards specified by the Law Society. The Society's Lawyers Fidelity Fund provides clients of lawyers with protection against monetary loss arising from theft by lawyers. The maximum compensation amount payable by the Fidelity Fund to an individual claimant is \$100,000.00. Except as specified in the Lawyers and Conveyancers Act 2006 the Fidelity Fund does not cover a client for any loss relating to money that a lawyer is instructed to invest on behalf of the client.

## **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, 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.

## **13 Complaints**

13.1 We seek to ensure that a complaint is dealt with promptly and fairly. If you have a complaint about our services or charges please refer it to either the Director who has overall responsibility for your work; or Greg Martin.

13.2 You may also use the Law Society's complaints service by contacting the Canterbury Westland branch (PO Box 565, Christchurch 8140, telephone (03) 366 9184).

## **14 Further Information**

14.1 The obligations lawyers owe to clients are described in the *Rules of Conduct and Client Care for Lawyers*. 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.lawsociety.org.nz](http://www.lawsociety.org.nz) or call 0800 261 801.