

STANDARD TERMS OF ENGAGEMENT

(Version 1.30 October 2017)

It is a requirement of the Lawyers and Conveyancers Act 2006 that we acquaint you with our Standard terms of Engagement. These Standard Terms of Engagement ("Terms") are the standard terms that apply in respect of all work carried out by us for you, except to the extent that we otherwise agree with you in writing. You do not need to sign any acknowledgment to confirm your acceptance of these terms; your continued instructions to us will be deemed acceptance of them.

We believe that one of the major factors influencing the level of fees incurred in relation to client's instructions is the level of communication between you and us. Please discuss with us the outcomes you seek before the work commences, and whilst we are performing it. This will ensure that unnecessary work is avoided, and each part of the work involved can be dealt with by people with the most appropriate level of experience or skill.

1 Services

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

1.2 We will advise and represent you on all legal matters falling within your instructions. However, we are not responsible for providing you with legal advice on taxation matters or consequences unless you specifically instruct us to do so. We shall use all due care and skill in the provision of our advice and services. Any advice provided is subject to changes in the law after it is given to you.

1.3 Our advice to you is given solely for your benefits and interests. Our advice and name must not be used in any other way without our written consent, except as required by any lawful authority or requirement. In particular, our advice or opinions must not be used in connection with any company prospectus, financial statement or public document, nor disclosed to any third party or government department or agency without our agreement.

1.4 If you are a company or other corporate entity, our obligations are only to you. We are not deemed to be acting for your associated directors, members or shareholders unless expressly agreed in advance.

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. 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. An estimate is a guide only, and is not a fixed price quotation.

c 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. We shall inform you periodically of the level of fees incurred or alternatively advise you when a specified level has been reached.

d As well as the time and labour expended, the following are also taken into account when calculating fees: The skill, specialised knowledge, and responsibility required to perform the services properly, the importance of the matter to the client and the results achieved, the urgency and circumstances in which the matter is undertaken and any time limitations imposed, including those imposed by the client, the degree of risk assumed by the lawyer in undertaking the services, including the amount or value of any property involved, the complexity of the matter and the difficulty or novelty of the questions involved, the experience, reputation, and ability of the lawyer, the possibility that the acceptance of the particular retainer will preclude engagement of the lawyer by other clients, whether the fee is fixed or conditional (whether in litigation or otherwise), any quote or estimate of fees given by the lawyer, any fee agreement (including a conditional fee agreement) entered into between the lawyer and client, the reasonable costs of running a practice and the fee customarily charged in the market and locality for similar legal services

e We also charge for office services including but not limited to photocopying, facsimiles, telephone communications, certain searches and enquiries and the like. This is charged either at the actual cost of such services, or a reasonable rate to recover the costs to the firm.

f Where our fees are covered in part or in whole by a grant of Legal Aid, they will be calculated in terms of the Legal Services Act 2011 and the rules and policies made by the Ministry of Justice ("MOJ"). You may be required to make a financial contribution to the MOJ and the terms of any grant of legal aid will be explained to you by the MOJ at the time the grant is made.

g Legal Aid is a limited grant of aid, not an unlimited resource. To be able to offer Legal Aid, Family Legal Advice Service ("FLAS") and other fixed-fee work, we need to have a clear understanding with you about what that work includes. We undertake such legal work that is necessary to complete the tasks as set out in the Legal Aid Grant Schedule. This means that we retain the right to decline appointments, phone calls, emails or other enquiries that are not relevant to completing the tasks as set out in the Legal Aid Grant Schedule if it is fair and reasonable having regard to the nature of the legal services to be provided and the surrounding circumstances.

h If you apply for but are not granted legal aid then our fees will be calculated at our normal hourly rates in accordance with paragraph (c) above. You will be liable for fees incurred in the provision of services up until the time that the refusal of legal aid is notified to you and to us.

i If your grant of legal aid becomes insufficient to carry out the work you ask us to complete on your behalf then we reserve the right (subject to the provisions of the Legal Services Act 2011) to charge you direct, or to withdraw from acting for you.

- 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. All hourly rates are exclusive of GST.
- 2.4 **Invoices:** We may 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:** Invoices are payable within 14 days of the date of the invoice, unless alternative arrangements have been made with us. We may require interest to be paid on any amount which is overdue. Interest will be calculated at the rate of 15.00% per annum.
- 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.
- 2.8 **Small Balances:** Due to the fact that it uneconomic to deal with small balances, any balance of \$20.00 or less remaining our trust account after conclusion of any matter may be retained by 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
- 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.
- 4.4 When your instructions on a matter are completed our representation will end. We will advise you of the completion of matters and provide a final written report to you.
- 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) 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.
- 6.2 Given the relatively small commercial and legal markets within New Zealand, clients should be able to retain lawyers of their own choice. Our acting for you shall not prevent us from acting for any other client on a separate matter even if that client's interests may be adverse to yours, provided that we do not use confidential information we have obtained from you in the provision of services to that client.
- 7 Trust Account**
- 7.1 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. In that case we will charge an administration fee of 5.0% of the interest derived. Deductions are also made by the bank for Resident or Non-resident withholding tax (RWT). You can minimise this deduction by providing us with your IRD number and choosing an RWT rate. Details are available from the Inland Revenue Dept's website.
- 8 General**
- 8.1 These Terms apply to any current engagement and also to any future engagement, whether or not we send you another copy of them.
- 8.2 We are entitled to change these Terms from time to time, in which case we will send you amended Terms.
- 8.3 Our relationship with you is governed by New Zealand law and New Zealand courts have non-exclusive jurisdiction.
- 8.4 Any change to our business or company structure shall not affect these terms of engagement.
- 8.5 If services are provided to you by electronic means, we will take reasonable precautions to ensure that they are provided in a manner that is adequate, secure and confidential. Any risks outside our direct control concerning the transmission and receipt of such electronic services and communications are not our responsibility and we shall not be liable for any damage or loss incurred in connection with the corruption of any such communication.
- 8.6 We do not routinely advise on taxation matters (including GST). We will endeavour to alert you when taxation issues may arise, but in every case you should take advice from an

accountant or other professional specialising in the particular tax area.

- 8.7 We are only qualified to advise you on matters relating to New Zealand Law. Any advice given on matters governed by foreign law is given on the basis that we accept no responsibility in relation to your position or legal obligations under that foreign law.

STATUTORY INFORMATION

Set out below is the information required by the Rules of Conduct and Client Care for Lawyers of the New Zealand Law Society ("Law Society").

- 1 **Fees:** The basis on which fees will be charged is set out in our letter of engagement. When payment of fees is to be made is set out in our Standard Terms of Engagement.

We may 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 **Professional Indemnity Insurance:** We hold professional indemnity insurance that meets or exceeds the minimum standards specified by the Law Society. We will provide you with particulars of the minimum standards upon request.

- 3 **Lawyers' Fidelity Fund:** The Law Society maintains the Lawyers' Fidelity Fund for the purpose of providing clients of lawyers with protection against pecuniary loss arising from theft by lawyers. The maximum amount payable by the Fidelity Fund by way of compensation to an individual claimant is limited to \$100,000. Except in certain circumstances 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.

- 4 **Complaints:** We maintain a procedure for handling any complaints by clients, designed to ensure that a complaint is dealt with promptly and fairly.

If you have a complaint about our services or charges, you may refer your complaint to the person in our firm who has overall responsibility for your work.

If you do not wish to refer your complaint to that person, or you are not satisfied with that person's response to your complaint, you may refer your complaint to *Nick Rout or Miranda Rout*

He/she may be contacted as follows:

- by letter;
- by email at *nick@primelegal.co.nz* or *miranda@primelegal.co.nz*
- by telephoning him/her at 3654900

The Law Society operates the Lawyers Complaints Service and you are able to make a complaint to that service. To do so, phone 0800 261 801 and you will be connected to the nearest Complaints Service Office, which can provide information and advice about making a complaint.

- 5 **Persons Responsible for the Work:** The names and status of the person or persons who will have the general carriage of or overall responsibility for the services we provide for you are set out in our letter of engagement.

- 6 **Client Care and Service:** The Law Society client care and service information is set out below.

Whatever legal services your lawyer is providing, he or she must:

- *Act competently, in a timely way, and in accordance with 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 how and 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 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 or call 0800 261 801.

- 7 **Limitations on extent of our Obligations or Liability:** Any limitations on the extent of our obligations to you or any limitation or exclusion of liability are set out in our terms of engagement and/or letter of engagement.