

TERMS OF ENGAGEMENT

1. The purpose of this document

1.1 This document

- Sets out the standard terms on which we do work for our clients;
- Explains what you can expect from us and what you agree to when we work for you;
- Includes information we are required to tell you under the New Zealand Law Society's Rules of Conduct and Client Care for Lawyers; and
- Applies to any current work and to any future work we do for you (unless we agree in writing to change these terms).

1.2 Occasionally we may change these terms. If we make changes, we will send you the updated terms.

2. Our duties to you

2.1 When we do work for you, we will;

- Protect your privacy and confidentiality.
- Act competently, promptly and according to your instructions.
- Protect and promote your interests.
- Give you clear information and advice.
- Keep you informed about progress.
- Treat you fairly and respectfully; and
- Charge you a fee that is fair and reasonable, Subject to any overriding duties we have (eg to the courts and the justice system).

2.2 our duties are owed to you, the client named in our letter of engagement. Nobody else (such as family members, shareholders, directors or related companies) can rely on our advice without our written consent.

3. Your privacy and confidentiality.

3.1 We consider client confidentiality to be of utmost importance. We will treat all information we hold about you in strict confidence. We will not use it or share it unless;

- You agree or ask us to; or
- We need to so we can carry out work for you; or
- The law requires us to, or the Rules of Conduct and Client Care for Lawyers permit us to; or
- Required to be provided to our Trust Account Auditors and/or Professional Indemnity Insurance underwriters.

3.2 Information we hold about you will as far as practicable be only made available to our partners and staff who are doing work for you.

4. Urgency

4.1 If you ask us to do your work urgency we will tell you whether or not this is possible or necessary.

4.2 Doing work urgency may mean allocating additional staff and/or resources to it. Consequently, our charges may increase.

4.3 In exceptional cases we may treat our work as urgent without advising you, if it is in your best interest. You will be charged accordingly.

5. Contentious Business and litigation

5.1 We cannot assure you of a particular outcome in Litigation or on contentious matters. We will explain to you the risks and contingencies that may affect the outcome.

6. How we avoid conflicts of interest.

6.1 When we do work for you we will always protect and promote your interests.

6.2 Before we accept a job from you we will do our best to find out if any conflict of interest exists.

6.3 If we find a conflict at any time, we will immediately let you know and tell you how we plan to deal with the conflict. That may mean we stop working for you, the other client or both.

7. Scope of our work

7.1 We are not qualified to give;

- Investment advice. You should get that advice from a qualified financial advisor; or
- Tax advice. You should get that advice from your accountant or tax advisor; or
- Advice about foreign laws. We can help you to contact a lawyers in the other country.

7.2 Unless we agree to do so in writing, we will not;

- Remind you about dates (eg PPSR, lease or consent expiry dates); or
- Update advice after it is given.

8. Intellectual property

8.1 Unless we agree otherwise;

- We retain ownership of all opinions, documents and other intellectual property created by us;
- You must not provide our advice to others (such as using our opinions in any public document or statement).

9. Emails

9.1 We may communicate with you by email about the work we do for you.

9.2 We have virus protection software and security protocols in place, however we cannot guarantee that electronic communications will always be free from viruses or other defects, are secure or will be received.

9.3 We may occasionally email you information we feel is relevant and useful to you. If you do not want to receive that information, let us know.

10. Storing records

10.1 We are required by the New Zealand Law Society to hold your files and documents for seven years after work has been completed. We use an independent off-site storage and archiving service which securely stores your files and documents both in hard copy as well as electronically. You authorise us to use the archiving service and for us to destroy all files and documents after we are no longer required to hold them. We will not destroy any documents we have agreed to hold in safe custody for you (such as Wills).

11. How you can help us

11.1 You can help us by;

- Giving us clear instructions;
- Asking if there is anything you are not sure of;
- Telling us if you have any important time limits;
- Dealing promptly with any questions we have;
- Telling us if your contact details change; and
- Keeping in touch. Please ask if you are concerned about anything or do not hear from us when expected.

12. Who we can accept instructions from

12.1 Unless you let us know otherwise;

- If you are a company, we can accept instructions from any of your directors or employees or any other person you have authorised to instruct us;
- If you are a trust, we can accept instructions from any of your trustees or officers;
- If you are a partnership, we can accept instructions from any of your partners or officers;
- If you are a couple, we can accept instructions from either of you.

13. Verifying your identity/Credit checks

13.1 In some circumstances we are required by law to verify your identity.

13.2 We may carry out reasonable credit checks on you. You authorise anyone we contact to provide us with information we request as part of our credit enquiries.

13.3 We may provide information to credit agencies about any account you have failed to pay by the due date.

14. Our fees and expenses

Fees

14.1 We will always charge you fair and reasonable fees.

14.2 Unless we agree with you otherwise, our fees will be calculated based on the time we spend on a job charged at our hourly rates, and adjusted where appropriate for other factors permitted by the Rules of Conduct and Client Care for Lawyers (such as the complexity, urgency, importance, specialised knowledge, responsibility and risk involved and the results achieved). We will provide you with our hourly rates on request.

14.3 We will give you an estimate of fees if you ask for one. Special fee arrangements may be available for certain work (eg capped fees). Any estimate or special fee arrangement for a job will be outlined in our letter of engagement.

14.4 If you have any questions about our fees please ask.

GST

14.5 Unless we state otherwise, our fees, estimates and hourly rates do not include GST or office expenses and disbursements, which are payable by you.

Office expenses

14.6 We charge you a fee to cover offices expenses (such as photocopying, printing, phone calls, faxing). This fee is calculated depended on the value of the account as follows;

- \$0.00 to \$99.99 - \$16.00.
- \$100.00 to \$499.00 - \$26.00.
- \$500.00 plus - \$46.00

In addition we charge you an archiving fee of \$70.00 for the independent off-site storage and archiving service.

Disbursements

14.7 When we do work for you, we may have to cover some expenses or make other payments on your behalf (such as search fees, registration fees, Land Information Memorandum, travel costs, accommodation, court charges and agent's fees). These will be included separately in our account to you. Some disbursements may include a reasonable mark-up.

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<i>Changes</i>		
14.8	Fees, hourly rates, office expenses and disbursements may change from time to time without notice.	
<i>Legal Aid</i>		
14.9	In some cases, you may be eligible for legal aid. If you want to apply for legal aid we will not be able to assist you.	
15.	Money handling procedures.	
15.1	We maintain a trust account for all funds we hold on behalf of clients (except funds we receive for payment of accounts).	
15.2	If we hold funds on your behalf we will deposit them in an interest bearing deposit with a bank, where reasonable and practicable. We are not responsible for obtaining the best interest rate available or for any loss of interest you suffer as a result of delay in placing your funds in an interest bearing deposit.	
15.3	We charge a 5% administration fee on the gross interest earned on funds held in an interest bearing deposit unless we agree otherwise.	19.3
15.4	Withholding Tax will be deducted on the interest earned and paid to IRD. If we have your IRD number you can elect to have Withholding Tax deducted at your applicable rate. If we do not have your IRD number we are required to deduct it at the default rate (which may be higher than your actual rate).	19.4
15.5	Where you transfer funds to our trust account in a foreign currency, we will convert those funds into New Zealand dollars at the prevailing exchange rate offered by our bank. We are not responsible for seeking or obtaining a better exchange rate.	19.5
16.	Paying your account	20.
16.1	We issue accounts monthly and on completion of a job or the ending of our engagement. We may also send you an account when we incur a significant expense.	20.1
16.2	Our accounts must be paid 21 days after the date of our account.	
16.3	If you have any questions about an account, please contact us straight away.	21.
16.4	Sometimes we may require you to pay fees, office expenses and disbursements in advance. If we do, we will hold your payment in our trust account and only deduct our fees, office expenses and disbursements when we issue you an account.	21.1
16.5	If we hold funds in our trust account on your behalf (including any judgement, sale proceeds, settlement amount or other money), any fees, office expenses or disbursements we have issued you an account shall be deducted from these funds.	21.2
16.6	We may charge interest on an unpaid account at the rate of 10% per annum above ASB's base lending rate calculated on a daily basis and charged monthly. We may take action to recover unpaid accounts and charge you the cost of that recovery. You agree we may use and disclose any personal information (as defined in the Privacy Act 199) for that purpose.	22
16.7	Any failure or delay by us to charge interest on an unpaid account or to exercise any of our other rights will not operate as a waiver of those rights.	22.1
16.8	At your request or with your approval, we may send our accounts to a third party to pay on your behalf. You are still responsible for payment by the due date if the third party does not pay us.	22.2
17.	Guarantee	22.3
17.1	If you are a company or other incorporated entity we may require personal guarantees from your directors, shareholders or other officers.	
18	Limiting our liability to you	22.4
18.1	In this clause we limit our liability to you. The maximum aggregate amount that we will have to pay you is \$1 million unless otherwise negotiated and agreed with you. This limit applies to the extent permitted by law, whatever you are claiming for and however liability arises or might arise if not for this clause (whether in contract, tort (including negligence), equity or otherwise). We will not have to pay you more than the maximum amount for anything caused by or resulting from anything we do or do not to, or delay in doing, whether or not it is contemplated or authorised by any agreement with you.	
18.2	If you are more than one person (such as a couple or partnership), this maximum is the minimum combined amount that we will have to pay you together.	23.
18.3	If you engage us to do work for the purposes of a business, you agree the Consumer Guarantees Act does not apply. Otherwise nothing in this clause 19 limits any rights you may have under the Consumer Guarantees Act.	23.1
18.4	We shall not be liable for any loss or liability caused or contributed to by inaccurate or incomplete information supplied by you or third parties (including public records and expert witnesses) or because you did not receive or read a communication we sent you.	
<i>No Claim</i>		
18.5	No claim may be made against us later than the earlier of;	
<ul style="list-style-type: none">• The time permitted by law; or		
<ul style="list-style-type: none">• Four years after the date on which the facts giving rise to the claim occurred.		
19.	Ending our engagement.	
19.1	You may end our engagement at any time by giving us reasonable notice.	
19.2	If we have good cause, we may decide to stop working for you, such as if you;	
<ul style="list-style-type: none">• Do not provide us with instructions promptly;• Are unable to, or do not, pay our fees as agreed; or• Against our advice, act in a way we believe is inconsistent with our fundamental obligations as lawyers or highly imprudent. This does not apply to litigation; or• Are misleading; or• Provide instructions requiring us to breach our professional obligations.		
If we decide to stop working for you, we will give you reasonable notice and help you find another lawyer.		
Before you take your records, you need to pay our fees for the work we have done for you. We may keep a copy of any records you take. The enforceability of these terms is not affected by;		
<ul style="list-style-type: none">• The ending of our engagement; or• Any changes to our partners or the incorporation of our firm.		
New Zealand Law Applies.		
Our relationship is governed by New Zealand Law and the New Zealand courts have exclusive jurisdiction.		
Professional Indemnity Insurance & Lawyers' Fidelity Fund.		
We hold professional indemnity insurance that exceeds the New Zealand Law Society's minimum standards. If you would like further information about our insurance, please ask.		
The New Zealand Law Society operates a Lawyers's Fidelity Fund to compensate clients who suffer theft of money or property entrusted to lawyers. The Fund covers losses of up to \$100,000.00 per individual claimant. It does not cover loss where you have instructed us to invest money on your behalf (subject to limited exceptions set out in the Lawyers and Conveyancers Act).		
How we handle complaints.		
We are committed to providing services of the highest professional standards.		
We will deal with any complaints promptly and fairly.		
Please contact us straight away if you have a question about an account or if you are unhappy with any other aspect of our work. You may contact;		
<ul style="list-style-type: none">• You may refer your complaint to Kerry Williams, who is the principal of this firm. Kerry Williams can be contacted as follows;<ul style="list-style-type: none">◦ kerry@williamsco.co.nz◦ 03 379 7444◦ By letter.		
The New Zealand Law Society also has a complaints service. Please telephone 0800 261 801 for more information and advice about making a complaint.		
Client care and service information		
We are committed to complying with the New Zealand Law Society's Rules of Conduct and Client Care for Lawyers. The following statement describes some of our professional responsibilities to you;		
Whatever legal services your lawyer is providing, he or she must;		
<ul style="list-style-type: none">• 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 now 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 fairly and promptly.		
These obligations lawyers owe to clients are described in the Rules of Conduct and Client Care for Lawyers. Those obligations are subject to 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.		