

TERMS OF ENGAGEMENT – 2023 – Ver 1

The purpose of these terms of engagement is to set out our professional relationship with you in accepting and actioning your instructions. Unless we agree different terms in writing, these terms apply whenever you instruct us to act for you.

What is our role in acting for you?

We will, with due care and skill, provide you with the legal services that you request or that we agree on, unless a conflict of interest or other factors prevent us from doing so. If this is the case, we will contact you immediately.

Building files / Building reports: As we are not qualified builders if you ask us to peruse or comment on Council building files, Land Information Memorandum or building inspection reports we do not accept any responsibility or liability for such checks or for any failure to note any issues with the files and reports.

How do we charge?

We charge for our services according to criteria * which have been approved by the New Zealand Law Society which includes such things as the skill, specialised knowledge and responsibility required, urgency of the matter, value or amount of the property involved, complexity and time involved.

* These factors are based on the New Zealand Law Society's Conduct and Client Care Rules 2008 for Barristers and Solicitors.

Other charges

Our charges include disbursements incurred on your behalf including registration fees, filing costs and court charges, and office expenses such as photocopying, printing, facsimiles, tolls, deliveries, etc. We may charge you an estimate of some expenses, such as photocopying, facsimile and phone charges. We charge a file opening fee to reflect the cost of setting you up in our system and file costs. We charge a fee to conduct customer due diligence for the Anti-Money Laundering and Countering Financing of Terrorism Act 2009.

Disbursements also include payments made on your behalf such as fees of agents, experts and other professionals, and are charged at the amount charged to us. Where you have instructed us to instruct outside counsel then you will, on demand, pay to us the fees billed to us by that outside counsel. You will also be charged GST at the current rate as required by law.

Security

We may ask you to prepay amounts to us, or to provide security for our fees and expenses. You authorise us:

- (a) to debit against amounts prepaid by you; and
- (b) to deduct from funds held on your behalf in our trust account any fees or disbursements for which we have provided an invoice.

Estimates of fees

If you would like us to give you an estimate of what we expect the fees will be for your matter, we will do so if possible. This will be a guide only and is not a fixed quote. We will also, at your request, tell you the amount of fees incurred to date, or we can let you know when fees reach a certain level.

How do we bill you?

Generally property or transactional matters will be billed at the time of settlement or on completion of the matter. For other matters, we will give you regular bills of cost (usually monthly) unless otherwise agreed. Payment is due on receipt or as otherwise arranged with us.

If you do not make payment within 7 days we reserve the right to charge you interest on any unpaid amount at the ASB Bank Business Lending Base Rate. If we are holding money for you we may deduct the account from that money and provide you with a full statement.

If your account remains unpaid and there is no satisfactory explanation for non payment, we:

- (a) may start proceedings to recover the amount owed plus interest and you will be liable for our legal or debt recovery costs (on an indemnity basis) incurred as a result of your failure to pay any outstanding amounts to us; and/or
- (b) may do no further work for you, and will not release your papers and files until all accounts are paid.

Even if you expect another party to reimburse you for our fees and/or charges, we have no recourse to any person other than you, and so look to you for payment, even if reimbursement is delayed or you fail to get reimbursed.

Please contact us immediately if you have any concerns about our account. If you wish, you may have an independent review of your account. The District Law Society (of which the partner responsible for your file is a member) is responsible for carrying this out, and can give you more information on this process.

Do we require payment in advance?

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

This money will be held in our trust account on your behalf and will be used to pay:

- (a) any charges as they are due; and
- (b) ourselves, immediately after sending you our account.

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

Retention of files and documents

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) seven (7) years after our engagement ends, or earlier if we have converted those files and documents to an electronic format. You agree to waive any liability we may have in relation to such matter, files or information and you agree to indemnify and hold us harmless against any such liability to any third party.

Confidentiality

Maintaining client confidentiality is fundamental. We will not disclose your confidential information unless required and authorised by you or by the law, or the New Zealand Law Society's Rules of Conduct and Client Care (lawsociety.org.nz/for-lawyers/regulatory-requirements/client-care).

We will sometimes need to collect, use and disclose personal information about people associated with you or with your transaction in order to carry out your instructions. Please make these people aware that this might happen.

We will comply with all applicable laws when we collect, use or disclose personal information about you or people associated with you.

Our Monitoring Obligations

We are obliged to comply with all laws applicable to us in all jurisdictions, including (but not limited to):

- anti-money laundering and countering financing of terrorism laws; and
- laws relating to tax and client reporting and withholding.

We may be required to undertake customer due diligence on you, persons acting on your behalf and other relevant persons such as beneficial owners and controlling persons. We may not be able to begin acting, or to continue acting, for you until that is completed.

To ensure our compliance and yours, we may be required to provide information about you, persons acting on your behalf or other relevant persons to government agencies. There may be circumstances where we are not able to tell you or such persons if we do provide information.

Please ensure that you and/or any of the persons described previously are aware of and consent to this. It is important to ensure that all information provided to us is accurate. If the information required is not provided, or considered by us to be potentially inaccurate, misleading, or in contravention of any law, we may terminate or refuse to enter into an engagement.

Electronic communications

We may communicate with you and others by electronic means, unless you instruct us not to. Electronic communications may be intercepted or corrupted. We do not accept responsibility for the corruption of an electronic communication and will not be liable for any connected damage or loss.

Records

We will maintain records of the work we carry out on your behalf. Unless you direct us otherwise, you authorise us to dispose of such records upon the expiry of the periods recommended by the New Zealand Law Society for retention of such records. The records may be stored in electronic form only. We will provide copies of records to you upon your request in accordance with our obligations under the Privacy Act 2020 or any other laws. We may charge you our reasonable costs for doing so.

We retain all ownership rights in all intellectual property of any kind created by us for you. You may not reproduce our intellectual property or provide it to any third party without our express prior written consent.

How does our engagement end?

You may end our engagement by giving us written notice at any time, other than where we rely on your instruction (for example, by giving an undertaking to a third party). You must pay our fees for work done and for other charges incurred up to the time of termination.

We may end our engagement, at any time including if our fees and charges are not paid when due.

If we become unable to act for you, all outstanding fees and other charges (up to the time of termination) will be billed to you. When you pay your account you have a right to uplift your file. Until your account is paid, we have a right to keep any of your property in our possession (this is called a solicitor's lien).

Acceptance of Terms of Engagement

By instructing us to provide you with legal services, you are deemed to have accepted these terms of engagement.