

# TERMS OF ENGAGEMENT

## 1. Acceptance:

Thank you for instructing our firm, NZ Legal Limited trading as Canterbury Legal ("we" or "us") to act for you. We undertake to provide you with legal services as instructed on our terms of engagement set out herein. By continuing to instruct us after the receipt of these terms of engagement you will be taken to have accepted them.

## 2. Financial

### 2.1 Fees

- a. Our fees are calculated taking into account not just the time involved but the skill and specialised knowledge required, the value of the property and the amount of money involved, the complexity of the matter and the results achieved, and the urgency and circumstances under which the matter is handled.
- b. If our engagement letter specifies a fixed fee, we will charge this for the agreed scope of our services. 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.

### 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. We charge a service fee for general office services.

### 2.3 GST (if any)

Is payable by you on our fees and charges.

### 2.4 Invoices

- a. We will send interim invoices and statements 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.
- b. We reserve the right to assign our invoices to third parties whether by way of discounting, factoring or otherwise.

### 2.5 Payment and Overdue Accounts

- a. Invoices and statements are payable within 14 days of the date of the invoice, unless alternative arrangements have been made with us. We will require interest to be paid on any amount which is overdue. Interest will be charged and payable at the rate of 16% and compounded monthly from the date payment became due. The imposition of interest is without prejudice to all other legal remedies available to us.
- b. We reserve the right to stop working on your behalf where accounts are overdue.

### 2.6 Security and Payment by Deduction

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.
- c. You acknowledge and agree that we may secure our overdue invoices and interest against your interest in any land or other property whether real or personal and you hereby charge all such property and grant a security interest in all such property to us. We are authorised to lodge and maintain a caveat against the title to any real property held either in your name or jointly with any other person(s) and are authorised to register a financing statement on the Personal Property Securities Register in relation to any property referred to in this clause. You hereby waive your rights to receive a copy of the verification statement in relation to any such registration.

### 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 Recovery of Fees and Expenses

If we are required to take any action to recover payment of our fees, disbursements or expenses we are authorised to use, only to the extent necessary to receive such payment, your private information

as that term is used in the Privacy Act 1993. You shall also be liable to pay all costs including debt collectors and legal fees incurred in taking action.

## 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 as set out in the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 ("LCR").
- 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 are unable to 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 as set out in the LCR.
- 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

You authorise us (without further reference to you) to destroy all files and documents for this matter including files held in an electronic format (other than any documents that we hold in safe custody for you) 6 years from the time a matter is complete, or in the case of paper files and documents earlier if we have converted those files and documents to an electronic format.

## 6. Conflicts of Interest

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 LCR.

## 7. Duty of Care

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. No Financial Advice

While we are able to advise you about any legal issues arising from the sale or purchase of property, we are unable to advise you about the financial wisdom of entering into any sale or purchase transaction or the investment quality of the property. We recommend that you seek independent financial advice about the financial aspects of a sale or purchase transaction as part of any due diligence enquiries you wish to make.

## 9. Trust Account

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 may charge an administration fee of 6% of the interest derived.

## 10. Production of Documents and Information

In the event that we are lawfully required to provide documents or information to any authority then we shall be entitled to charge you fees and disbursements for its involvement. You hereby authorise us to provide your information in order to comply with the Foreign Account Tax Compliance Act or to comply with disclosure of information required under Section 17 of the Tax Administration Act 1994.

## 11. Companies/Trusts

Instructions to us on behalf of a company or trust may be given by one director/trustee or a duly authorised person.

Any instructing director/trustee or other duly authorised person is jointly liable with the company/trust for our fees and disbursements.

## 12. Credit Check

You hereby authorise us to make reasonable and confidential credit enquiries from an appropriate information provider.

## 13. AML / CFT Compliance

- 13.1 From 1 July 2018, all New Zealand lawyers are required to comply with the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 ("AML/CFT").
- 13.2 This change requires us to collect and verify information about our clients. We are now required to have systems in place to conduct

client due diligence ("CDD") on both new and existing clients. This includes verifying their identity, address and in some cases source of wealth and source of funds. We will also be required to report any suspicious activity to the appropriate authority.

- 13.3 Before we can start work for a new client, we will need to obtain satisfactory evidence to complete CDD. This includes collecting and verifying identity, address and business structure information. What information is required will vary depending on whether the client is an individual, partnership, company, public entity, estate or trust. CDD will also include identifying any beneficial owner(s) and person(s) acting on behalf of a client.
  - 13.4 Where a new instruction from an existing client specifically involves an activity covered by the Act then we are required to complete CDD before we can start work.
  - 13.5 +To assist us in conducting CDD you hereby confirm that you will allow us to have your personal information verified against personal information held by third party databases and hereby consent our undertaking this process.
- 14. Limitation of liability**
- 14.1 Any claim you have against us must be filed within two years after the date of the act or omission on which the claim is based. Otherwise, the claim cannot be filed and we will have no liability for that act or omission or for its consequences (to the extent permitted by law).
  - 14.2 In these Terms, "claim" and "the date of the act or omission on which the claim is based" have the same meanings as in the Limitation Act 2010. This time limit overrides the time periods under that Act, and applies regardless of when any fact relevant to the claim was first discovered or able to be discovered.
  - 14.3 To the extent permitted by law, our aggregate liability to you (whether in contract, equity, tort or otherwise) arising out of your engagement of us on a matter (or any series of related matters) shall not exceed the amount set by the New Zealand Law Society as

the minimum standard for the indemnity limit on our professional indemnity insurance.

- 14.4 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.
- 14.5 Notwithstanding anything to the contrary contained herein, we will not be liable for any delays or failures in the performance of our services resulting from acts beyond our reasonable control including, without limitation, acts of God, acts of war or terrorism, shortage of supply, breakdowns or malfunctions, pandemics, interruptions or malfunction of computer facilities, or loss of data due to power failures or mechanical difficulties with information storage or retrieval systems, labour difficulties or civil unrest whether they be a prime or contributory cause. Notwithstanding the foregoing, in the event of such an occurrence, we agree to make a best endeavours effort to perform our obligations hereunder.

**15. General**

- 15.1 These Terms apply to any current engagement and also to any future engagement, whether or not we send you another copy of them.
- 15.2 These Terms will be deemed to be modified to the extent necessary to comply with the LCR's in force from time to time.
- 15.3 We are entitled to change these Terms from time to time, in which case we will send you amended Terms or make the amended Terms available on our website.
- 15.4 Our relationship with you is governed by New Zealand law and New Zealand courts have non-exclusive jurisdiction.
- 15.5 You may not transfer or assign your rights or obligations under these Terms or in relation to any engagement of us on any matter.

**INFORMATION FOR CLIENTS**

**1. Fees**

The basis on which fees will be charged is set out in our Terms of Engagement. When payment of fees is to be made is set out in our Terms of Engagement.

**2. Professional Indemnity Insurance**

We hold professional indemnity insurance details of which can be supplied 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 \$100,000.00. 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 Sue Cousins. She may be contacted as follows:

- by letter;
- by email at [admin@canterburylegal.co.nz](mailto:admin@canterburylegal.co.nz)
- by telephoning her at 03 377 0792

Alternatively, 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 follows.

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 LCR. Those obligations are subject to other overriding duties, including duties to the courts and to the justice system.

**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 letter of engagement and terms of engagement.

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.

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

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**Please sign here – Signature of Client**  
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