

# Glaister Keegan - Terms of Engagement

## 1 General

- 1.1 These Terms of Engagement, in conjunction with and subject to the written terms of any particular retainer, will govern our relationship with you.

## 2 Client Care— Our Commitment To You

- 2.1 We are committed to doing our best to ensure that your legal needs are met in any matter on which you instruct us. We will:
- (a) Act competently, in a timely way, and in accordance with instructions received and arrangements made.
  - (b) Protect and promote your interests and act for you free from compromising influences or loyalties.
  - (c) Discuss with you your objectives and how they should best be achieved.
  - (d) Provide you with information about the work to be done, who will do it and the way the services will be provided.
  - (e) Charge you a fee that is fair and reasonable and let you know how and when you will be billed.
  - (f) Give you clear information and advice.
  - (g) Protect your privacy and ensure appropriate confidentiality.
  - (h) Treat you fairly, respectfully and without discrimination.
  - (i) Keep you informed about the work being done and advise you when it is completed.
  - (j) Let you know how to make a complaint and deal with any complaint promptly and fairly.
- 2.2 The obligations lawyers owe to clients are described in the Rules of Conduct and Client Care for Lawyers. They are subject to other overriding duties including our duties to the courts and the justice system.
- 2.3 If you would like a copy of these rules please contact Georgia Preston-Jones (our Practice Manager) on 09 356 8242 or [georgia.preston-jones@glaister.co.nz](mailto:georgia.preston-jones@glaister.co.nz), or the New Zealand Law Society on 0800 261 801 or [www.lawsociety.org.nz](http://www.lawsociety.org.nz).

## 3 Our Services

- 3.1 We will be responsible for providing legal advice to you. We do not provide taxation or financial advice, though we may arrange third party experts to do so if requested.
- 3.2 Any advice given by us may not be relied on by any other person unless we agree to that in writing.

## 4 The Basis of our Charges

- 4.1 Unless otherwise agreed, our fees are based on the range of factors described in the Rules of Conduct & Client Care for lawyers issued by the New Zealand Law Society. These factors include time and labour

expended, expertise, importance, urgency, risk, complexity.

- 4.2 In calculating our fee, we add 6% as a sundry fee to cover internal office expenses. Any disbursements and third-party expenses incurred will be itemised and charged to you separately.
- 4.3 Any disbursements paid to Auckland Legal Services Limited are to a company which is owned by the families of the partners of Glaister Keegan. Our invoices will separately identify the agency fee charged by this company, with copies of these invoices being available upon request.
- 4.4 Disbursements will also include charges to cover the cost of any required anti-money laundering verification. There is a minimum charge of \$100 (GST inclusive) for the verification of individuals, simple companies and family trusts. However, if your entity is complex, has numerous beneficial owners, or if we need to obtain verification information from offshore, the verification costs will be greater. We will notify you if any disbursements need to be paid for in advance. Unless stated otherwise, all fees and costs are plus GST.
- 4.5 From time to time, we may be requested by you to invest your funds on interest-bearing deposit (IBD). We charge a commission fee on the collection of bank interest earned on these deposits at 5% of the gross interest.
- 4.6 Where work involves court proceedings or you are based overseas and in some cases in relation to other work, we may ask you to pay in advance money to us on account of fees and/or other charges yet to be incurred.
- 4.7 We are happy to discuss our fees and charging arrangements with you at any time. We can give estimates of the likely fees for a matter based on our experience of similar matters, but they are a guide only. Upon request, we will inform you if there are any material or unexpected delays or it is likely that any fee estimate is insufficient to cover our fees in this matter.

## 5 Payment

- 5.1 We issue interim accounts, usually monthly, while work is in progress, with a final bill on completion. Current payment terms are set out on our invoices and unless otherwise stated are due for payment within 7 days following the issue of the invoice.
- 5.2 If you do not pay a fee on time, we may charge you interest on a calendar monthly basis on the outstanding balance of the account. Interest will be charged at the current ASB Bank Card rate and will accrue from the date due until the date of payment.

5.3 We may deduct from any funds held on your behalf any fees, disbursements or expenses for which we have provided an invoice.

5.4 We do not accept payments by cash without prior arrangement.

## 6 **Foreign Account Tax Compliance Act (FATCA) and Common Reporting Standards (CRS)**

6.1 FATCA and CRS require us to collect certain information from you if we open an IBD for you with our bank.

6.2 If we do open an IBD, we will send you our bank's FATCA/CRS self-certification form to be completed and returned promptly. We cannot put any of your money on IBD (which means any funds we hold will be placed in our trust account and will not earn interest) unless the completed form is returned to us.

6.3 If you are a foreign tax resident or a US person, our bank may have an obligation to provide information to the IRD, who then may have an obligation to share that information with the relevant foreign tax department.

6.4 Please update us if your circumstances or the information you provide changes.

6.5 For the avoidance of doubt, we are not advising you of your own independent FATCA and/or CRS obligation, if any.

## 7 **Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT)**

7.1 Lawyers are now subject to AML/CFT for many areas of their practices. Before we do business with you, we must obtain information to establish that "you are who you say you are". In some cases, we will also need information about your business and sources of wealth or funds. We have to obtain this information even if we have worked for you before.

7.2 We have engaged a specialist AML services provider to assist us with the collection of the necessary AML/CFT information. The name of the service provider is "First AML" and they will contact you directly to complete the due diligence process. It is important to provide information promptly to First AML to avoid any delays with your legal work. We may elect to obtain the relevant information from you directly instead of outsourcing this to First AML, however in either case we cannot proceed with your transactional work until we have complied with our legal obligations. Accordingly, it is very important to provide the information quickly.

7.3 We are obliged to retain this information for at least 5 years after our business relationship with you ends. By providing the information to us you consent to it being disclosed to external agencies for the purposes of verification. We will hold any information in

accordance with our privacy policy (which is available from our website).

7.4 We will review and update your information from time to time, but we will contact you in future if we need any further information.

7.5 We are obliged to report international wire transfers of \$1,000 or more and all transactions or activities which may appear suspicious to enforcement agencies.

7.6 We reserve the right to refuse to act for you if you do not provide the requested information or appear to be engaged in suspicious or illegal activities.

## 8 **Electronic Communications, Email Security and Payments to Us**

8.1 We may communicate with you and others at times by electronic means. While we operate through a secure email server there is always a potential security risk. These communications can be subject to interference or interception or contain viruses or other defects.

8.2 We do not accept responsibility for and will not be liable for any damage or loss caused in connection with, or as a consequence of, the corruption or interception of an electronic communication.

8.3 If you have received our trust account details by email you should telephone us to verbally confirm our account number before making payment.

## 9 **Professional Indemnity Insurance and Fidelity Fund**

9.1 We hold professional indemnity insurance that exceeds the standard specified by the New Zealand Law Society.

10 The Law Society also 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.

## 11 **Limitation of Liability**

11.1 To the maximum extent permitted by law our total aggregate liability for any loss or damage suffered by you, whether arising in contract, negligence, equity, or otherwise, is limited to the lesser of (i) \$2,000,000 or (ii) ten times the maximum aggregate total of our fees (excluding barrister's fees and other disbursements) charged and paid over any 12-month period of our retainer on the relevant matter.

- 11.2 We will not be liable in any circumstances for any indirect or consequential losses, loss of profit or lost opportunity.
- 11.3 You may not bring any claim against us, including any claim for contribution or indemnity, regardless of its basis in law or its form, more than two years after the date of the act or the omission upon which the claim is based. This time period overrides the time periods under the Limitation Act 2010 and applies regardless of when any fact relevant to the claim was first discoverable or able to be discovered.
- 11.4 This clause is for the benefit of any staff member or barrister engaged, retained or instructed by us to assist you with your matter and will apply to them with such modifications as are required to confer on them the maximum benefit of this clause permitted by law. In applying this clause to any claim against a barrister, the reference to fees above shall be read as a reference to the barrister's fee.

## 12 Complaints

- 12.1 We are committed to our service to you but if you have a complaint, please raise it with the partner named above with overall responsibility for this matter.
- 12.2 If you have any concerns or complaints that you prefer not to raise with the partner named above, please contact Stephanie Harris, our joint Managing Partner, personally. We are committed to resolving any issues as soon as possible. Stephanie can be contacted on 09 356 8232 or [stephanie.harris@glaister.co.nz](mailto:stephanie.harris@glaister.co.nz).
- 12.3 You can also contact the New Zealand Law Society's Complaint Service at 26 Waring Taylor Street, PO Box 5041, Wellington 6145, telephone 04 472 7837 or 0800 261 801 or 04 473 7909.

## 13 Completion and Retention of Files

- 13.1 When this matter is completed, we will advise you accordingly and provide a brief summary of the work undertaken if we have not already done so.
- 13.2 We will retain the file for this matter for at least 7 years from completion. While in many cases files may be held for 10 years, under these terms and conditions (and unless you expressly instruct us otherwise) you permit us to destroy the file after the minimum 7-year retention period. Longer retention periods may apply to documents that we store in our Deeds system - please contact us if you would like to discuss details.

## 14 Confidential Information

- 14.1 We will not disclose to any other person any confidential information which we obtain as your lawyers except to the extent authorised by you or required by law or the New Zealand Law Society Rules of Conduct and Client Care for Lawyers (NZLS Rules).

The NZLS Rules can be found online at [www.lawsociety.org.nz](http://www.lawsociety.org.nz).

## 15 Intellectual Property

- 15.1 Unless otherwise agreed in relation to a particular retainer, we will own ownership of copyright and other intellectual property rights in material created by us for you.
- 15.2 You may not reproduce our intellectual property or provide it to any third party without our written consent.

## 16 Termination

- 16.1 You may terminate any instructions to us at any time. You will remain liable to pay us for work performed and disbursements incurred up to the date of termination.
- 16.2 We may terminate any particular retainer in the circumstances permitted by the NZLS Rules.

## 17 Privacy

- 17.1 In acting for you we may collect personal information about you. If we collect personal information about people who are employees, directors or principals of yours will you make sure that these people are aware that our acting for you involves collection of personal information about them.
- 17.2 If we do not collect this personal information, we may not be able to carry out your instructions.
- 17.3 Personal information will be used by us to provide legal services to you, to conduct customer due diligence on you as required correction by the Anti-Money Laundering and Counter Financing of Terrorism Act 2009 and associated regulations, to obtain credit or other references about you, to undertake credit management and to tell you about issues and developments that may be of interest to you. You authorise us to obtain from any person or release to any person any information to us that we require for these purposes.
- 17.4 If you are an individual, under the Privacy Act 1993 you have the right of access to, and correction of, your personal information held by us.

## 18 Terms Generally

- 18.1 These terms apply to any current engagement and also to any future engagement whether or not we send you another copy of them. We may change these terms from time to time and an up to date copy will be posted to our website: [www.glaisterkeegan.co.nz](http://www.glaisterkeegan.co.nz).
- 18.2 Our relationship with you is governed by New Zealand law and New Zealand courts have non-exclusive jurisdiction.