

TERMS OF ENGAGEMENT

These Standard Terms of Engagement ("Terms") apply in respect of all work carried out by us for you, except to the extent that we otherwise agree with you in writing.

1. **Services** : The services which we are to provide for you are outlined in our engagement letter along with any further instructions that you provide to us in writing (or that we record in writing).

In order to provide you with efficient advice and services and to provide the most cost-effective service, it may be that part or all of your instructions will be delegated to other professionals in our firm.

2. **Financial**

- 2.1 **Fees** :

- (a) The fees which 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 practical 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.
 - (c) Where our fees are calculated on an hourly basis, the hourly rates are set out in our engagement letter. The fee charged may take into account those factors described in our letter of engagement. These hourly rates may change from time to time and you will be notified accordingly. Time spent is recorded in six-minute units.

- 2.2 **Disbursements and expenses** : In providing services we may incur disbursements or have to make payments to third parties on your behalf. We may also charge you an administration fee for administration charges associated with your matter/s. The administration fee will not exceed 6.5% of the fees charged to you up to \$5,000.00 and a further 2.5% on amounts over \$5,000.00 up to a maximum fee of \$375.00. Photocopying expenses are in addition and are calculated at \$0.50 per page. 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 (except for exempt clients)** : Is payable by you additional to our fees and charges.

- 2.4 **AML/CFT fees**: We will charge \$60.00 on your first invoice with us for any new matter that requires AML/CFT compliance. This fee covers our reasonable time and use of any third party supplier for AML verification purposes. If we have to pay to, or receive money from, an overseas account there is an additional \$250.00 (GST exclusive) fee.

- 2.5 **Invoices** : We will send interim invoices to you, usually monthly and on completion of the matter, or on termination of our engagement. We may also send you an invoice when we incur a significant expense.

- 2.6 **Payment** :

- (a) 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 more than 7 days overdue. Interest will be calculated at the rate of 5% above our firm's main trading bank's 90-day bank bill buy rate as at the close of business on the date payment became due. Failure to pay within the 14-day period referred to above may result in debt recovery proceedings being filed against you. We reserve the right to require payment of any reasonable costs incurred in doing so.

- (b) If you pay monies into our trust account, you are authorising us to deduct our invoice(s) even if these monies were paid in not by you as the client i.e. client personally (Greg Smith) pays his invoices from his trust Greg Smith Family Trust or his company Greg's Cleaning Limited.
- 2.7 **Security** : You authorise us 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.
- 2.8 **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.
- 2.9 **Estimates** : You may request an estimate of our fee for undertaking services at any time. If possible, we will provide you with an estimate (which may be a range between a minimum and a maximum amount or for a particular task or step). An estimate is not a quote. We will inform you if we are likely to exceed the estimate by any substantial amount. Unless specified, an estimate excludes GST, disbursements and expenses.
- 2.10 **Overpayments** : You are required to provide a New Zealand bank account number to us prior to us beginning work. You then authorise us to reimburse any overpayments made to this bank account at our discretion.
- 2.11 Alternatively, if a bank account number is not provided and a minimal overpayment occurs (i.e. under \$10.00 New Zealand and under \$50.00 international), and it is uneconomical to return the funds to you, we will either invoice the funds or pay these to Inland Revenue Department; Unclaimed Monies.

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. We may disclose matters to the Legal Services Agency if you are legally aided and you authorise us to do this.
- 3.3 We will not disclose to you confidential information which we have in relation to any other client.
- 3.4 Advice which we give is personal to you only. No recording may be made in any consultation which we have with you unless you first have the permission in writing of a partner of the firm.

Anti-Money Laundering & Countering Financing of Terrorism Act 2009 (AML/CFT Act)

- 3.5 We will perform customer due diligence and account monitoring, keep records and report any unusual or suspicious transactions where required by the AML/CFT Act or any other law.
- 3.6 We may delay, block or refuse to process a transaction (including by refusing to handle and deposit money on trust for you) and report a transaction, without notice to

you, if it is suspected that the transaction is unusual, may breach any applicable law or may otherwise relate to conduct that is illegal or unlawful in any country.

- 3.7 The Act also requires us to collect from you and to retain information required to verify your identity. We may therefore ask you to show us documents verifying your identity (such as a passport or driver's licence). We may retain copies of these documents.

4. Legal Aid

- 4.1 Legal aid is governed by the Legal Services Act 2011 and the associated Regulations. Legal aid is administered through the Ministry of Justice by the Legal Services Commissioner.
- 4.2 If you are applying for family or civil legal aid you may now be required to pay a \$50.00 user charge to your lawyer. We may decline to provide any services under a grant of legal aid until that user charge is paid. The user charge will be held in our trust account in anticipation of legal aid being granted. Once your legal aid is approved, the user charge will be deducted from our first invoice. If legal aid is declined, you will be required to pay our fees on the basis otherwise described and the \$50.00 held in trust will be invoiced and used for opening your file and assisting with other expenses.
- 4.3 We will submit invoices in relation to your grant of aid to the Legal Services Commissioner and provide you with copies. The Legal Services Commissioner will write to you about any conditions or repayment obligations that you may have in relation to the grant of legal aid and your rights as an applicant or recipient of legal aid. You should be aware at this time that legal aid is not always free. You should read that letter carefully and keep it for later reference.
- 4.4 You must let the Legal Services Commissioner know if there is any change in your and your partner's contact details, employment status, family circumstances or financial details.
- 4.5 If for some reason you are unsuccessful in your application for legal aid or if for some reason the application is not filed or completed correctly then you will be responsible for our fees and they will be calculated as indicated above or in our letters of engagement.

5. Termination

- 5.1 You may terminate our retainer at any time. Before termination, we request that you contact us for a discussion. We request that any termination be in writing.
- 5.2 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.
- 5.3 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.
- 5.4 If we are solicitors on the record for your representation before any Court or Tribunal and it is necessary for us to disengage from this please be advised that you will be liable for any time and trouble in securing our removal from the Court record.
- 5.5 If you wish to uplift your old file you may be liable for the cost of our time and trouble in sorting through the file and releasing the documentation to which you are entitled. This includes reasonable expenses in copying any documentation we deem necessary.

- 6. Retention of files and documents :** You authorise us (without further reference to you) to destroy all files and documents for matters undertaken for you (other than any documents that we hold in safe custody for you) 7 years after our engagement in any matter ends, or earlier if we have converted those files and documents to an electronic format.

- 7. 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 Law Society's Rules of Conduct and Client Care for Lawyers.

8. **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. We do not accept any responsibility or liability whatsoever to any third parties who may be affected by our performance of our services or who may rely on any advice we give, except as expressly agreed by us in writing.

To the extent allowed by law, our aggregate liability to you (whether in contract, tort, equity or otherwise) in connection with our services to you is limited to the amount available to be payable under the Professional Indemnity Insurance held by the firm.

9. **Our Expectations of You :** You will provide to us in a timely manner all information required for us to represent you either in Court or otherwise. Particularly you will ensure that we have all information we need for creation of legal documents or to enable us to provide information to the Court and to represent you effectively in Court.

10. **Trust Account :**

- 10.1 We maintain a trust account for all funds which we receive from clients (except moneys received for payment of our invoices).
- 10.2 If we hold funds on your behalf we will normally deposit them on interest-bearing deposit with a bank, where reasonable and practicable to do so. We can only do this if you have provided us with the necessary information to fulfil the FATCA (Foreign Account Tax Compliance Act) and CRS (Common Reporting Standard) requirements. 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.
- 10.3 We charge a 5% administration fee of the interest earned on funds held in interest-bearing deposit unless we agree otherwise.
- 10.4 Withholding tax will be deducted on the interest earned and paid to the 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). Please ask us if you would like more information about FATCA or CRS.

11. **Scope of advice :** Please note that we provide legal advice only. If you are purchasing, selling, mortgaging, or dealing in property or any other investment, be aware that we do not provide financial or investment advice and our agreement to act for you does not imply any view on our part as to the financial prudence of the transaction being undertaken. Please be aware that in terms of the Legal Services Act 1991 we may be obliged to provide the Ministry of Justice information which we are aware of regarding your income and expenses.

Please also be aware that under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 we may have to notify and provide information to government or other agencies, without notice to you.

12. **Clients charged with criminal offences :** Please be aware that under the Criminal Procedure Act 2011 you may render yourself liable for serious penalties if, having engaged us, you then fail to provide instructions.

If you do not comply with the procedural requirements set out in that Act, or are not complied with by your lawyer because we could not get instructions from you, then in some circumstances this can be treated as an aggravating factor at sentencing. If, on the other hand, you have taken active steps to shorten the proceedings or reduce the cost of the proceedings, then this can be considered a mitigating factor at sentencing.

- 13. Compliance costs:** If we become subject to a statutory obligation to provide information to a Government agency or any other authority, be aware that our time in complying with such request and the reasonable disbursements and expenses that we incur in complying with such request will be invoiced to you at the rates described above. This also applies to requests for information from Police, Accountants, Inland Revenue and NZ Customs.
- 14. General**
- 14.1 These Terms apply to any current engagement and also to any future engagement, whether or not we send you another copy of them.
 - 14.2 We are entitled to change these Terms from time to time, in which case we will notify you.
 - 14.3 Our relationship with you is governed by New Zealand law and New Zealand courts have exclusive jurisdiction.
 - 14.4 We may provide documents and other communications to you by email (or other electronic means). You will advise us if any of your contact details change.
 - 14.5 If and when you provide your email address you authorise us to add you to our subscription and email you our newsletter / updates on the firm unless you expressly confirm otherwise.

INFORMATION FOR CLIENTS

- 1. 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 purposes 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 & 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 Mr Roger Eagles, or any other Partner of the firm. Contact may be made as follows –

- by letter to PO Box 1445, Invercargill;
- by email at office@eagles-eagles.co.nz; or
- by telephone at (03) 218 2182.

The Law Society also maintains a complaints service and you are able to make a complaint to that service. To do so you should contact the Law Society :

- 0800 261801

- 5. Service Standards :** 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.lawyers.org.nz or call 0800 261 801.

- 6. 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.