

INFORMATION FOR CLIENTS

Set out below is the information required by the Rules of Conduct and Client Care for Lawyers of the New Zealand Law Society ("Law Society").

- 1 **Fees:** The basis on which fees will be charged is set out in our Letter of Engagement. When payment of fees is to be made is set out in our Standard Terms of Engagement.

We may 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 **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 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.

- 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 **Terry Sutcliffe**

He may be contacted as follows:

- by letter;
- by email at office@frostandsutcliffe.co.nz
- by telephoning him on (09) 279 8351

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 Terms of Engagement.

In order to provide services in an effective, efficient and timely manner, others may assist from time to time with the conduct of your matter.

We have the usual authority of a lawyer to act on your behalf in connection with each instruction we accept from you. This includes your authority, where reasonable, to engage law firms in other parts of New Zealand or in foreign jurisdictions; engage barristers or experts and incur expenses

6 Client Care and Service:

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.lawsociety.org.nz or call 0800 261 801.

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.

STANDARD TERMS OF ENGAGEMENT

These are sample standard Terms of Engagement. They are provided by way of illustration only and each law practice is free to adopt the Terms of Engagement it wishes, subject to the obligations of lawyers under the Lawyers and Conveyancers Act and the Rules of Conduct and Client Care for Lawyers.

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

- 1.1 The services we are to provide for you are outlined in our Letter of Engagement.
- 1.2 This Act requires us to inform you that we are not investment advisers and do not have qualifications or expertise in the provision of investment advice.

2 Financial

2.1 Fees:

- a The fees we will charge or the manner in which they will be arrived at, are set out in our Letter of Engagement.
- b If the engagement Letter of Engagement 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 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.
- c Where our fees are calculated on an hourly basis, the hourly rates are set out in our Letter of Engagement. The differences in those rates reflect the experience and specialisation of our professional staff. Time spent is recorded in 6 minute units, with time rounded up to the next unit of 6 minutes.
- d **Estimates:** If requested, written estimates of fees will be provided before work commences. Estimates are provided as a guideline only and are based on our professional judgment. Estimates are not maximum or fixed fee quotations.
- e **Quotations:** In certain circumstances quotations will be provided. Any quotation provided will be recorded in writing and clearly labelled as a quotation rather than an estimate.

- 2.2 **Disbursements and Expenses:** We will charge for out-of-pocket expenses and disbursements which we pay or are liable to pay others on your behalf including registration and search fees and filing fees, Court charges, fees of agents, experts and other professionals and travel costs. We may require an advance payment for the disbursements or expenses which we will be incurring on your behalf.

- 2.3 **Office Costs:** Our fees include a charge for sundry office services, which include photocopying, facsimiles, voice and data communications, postage and deliveries. This is charged at a flat rate of \$65.00.
- 2.4 **GST (if any):** Is payable by you on our fees and charges.
- 2.5 **Invoices:** We will send interim invoices 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.
- 2.6 **Payment:** 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 2% 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.
- 2.7 **Security:** 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.
- 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 **Guarantees:** We may ask for a guarantee for payment of our fees. If this requirement is set out in our Letter of Engagement, we will not undertake substantial work until a copy of the letter signed by the guarantor(s) has been returned to us.
- 2.10 **Legal Aid:** For information on your financial eligibility for legal aid please visit www.lsagovt.nz. It is not our practice to work on legal aid matters.

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.
- 3.3 We will of course, not 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 set out in the Law Society's Rules of Conduct and Client Care for Lawyers
- 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

- 5.1 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) 7 years after our engagement ends, or earlier if we have converted those files and documents to an electronic format.
- 5.2 We are generally entitled to retain all your files and documents while money is owing to us by you. We keep all files we establish on a matter for at least 7 years after our engagement on that matter ends. We may hold that file electronically rather than in hard copy. After expiry of that period we have your authority to destroy that file without further reference to you. We will not destroy documents you ask us to hold in safe custody for you. If at your request we destroy any files or documents in advance of our usual destruction date, we will not be liable to you and you will indemnify us for any liability to a third party in relation to the matter, files and documents. If you uplift your files and other documents at any time we may make copies of them before they are uplifted. We may charge our time, and any photocopying charges, at our usual rates relating to the review of the files, copying of them where we do, and making them ready for your uplifting.

6 Conflicts of Interest

- 6.1 We have policies in place to identify and respond to conflicts of interest. If a conflict of interest or potential conflict of interest arises, we will consult with you about the best way to resolve the matter.
- 6.2 We recognise that New Zealand has relatively small commercial and legal markets. As far as possible, clients should be able to retain lawyers of choice. We may, therefore, act for other clients whose commercial or legal interests differ from yours. However, we will not act without your consent for any other client where that client's instructions:
 - Are substantially related to any active matter on which we are working for you, or
 - Involve confidential information which we hold on your behalf that would disadvantage you if disclosed to the other client and there is a real risk that the personnel within our firm who would act for that other client would obtain that information.
- 6.3 Where we hold confidential information on your behalf but no longer act for you on that matter, we will ensure that effective information barriers are in place so that there is no material risk that you will be disadvantaged by our holding that information. As necessary,

information barriers will include ensuring that access to hard-copy files and electronic documents is limited at the appropriate personnel.

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 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 5% of the interest derived.

9 Information

You warrant that all information you provide us with is accurate and not misleading and you agree that we may rely on that being so.

10 Intellectual Property

All copyright and other intellectual property arising or created or provided by us in connection with our services (including all intellectual property rights in any document, advice or thing created by us in the course or providing the services to you) remains our property.

11 Electronic Communication

Unless otherwise agreed with you, we may communicate with you at times by electronic means. Although we will take reasonable precautions we cannot and do not warrant that these communications will be complete, secure and free from viruses or other defects and will not be delayed or fail to be received.

12 Foreign Law

We are only qualified to advise on New Zealand law. If you instruct us in respect of any matter that is governed by foreign law, we only act on the basis that we are not responsible for advising you in relation to your legal position under that foreign law.

13 Limitations of Obligations

We are not responsible for any failure to advise on any matter that falls outside the scope of our engagement and we have no responsibility to you to update any advice to take account of events or changes in the law that take place after it is issued.

14 Limitations of Liability

We will not be liable, whether in contract, tort (including negligence) or otherwise, for:

- a) Any loss of profit or revenue, exemplary damages or any indirect or consequential loss or damage howsoever described or claimed.
- b) Any loss or damage to the extent it is attributable to your conduct or a failure by you to take reasonable care of your own interests.

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 We are entitled to change these Terms from time to time, in which case we will send you amended Terms.
- 15.3 Our relationship with you is governed by New Zealand law and New Zealand courts have non-exclusive jurisdiction.

