

## TERMS AND CONDITIONS OF ENGAGEMENT

These Terms and Conditions of Engagement ("Terms and Conditions") 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 which we are to provide for you are outlined in our Agreement for Provision of Legal Services.

### 2. Financial

#### 2.1 Fees:

- (a) Fees are calculated by the firm having regard to the time expended on your matter but also taking into account the following factors:
- (i) The skill, specialised knowledge and responsibility required to perform the services properly;
  - (ii) The importance of the matter to you and the results achieved;
  - (iii) The urgency and circumstances in which the matter is undertaken and any time limitations imposed, including those imposed by you;
  - (iv) The degree of risk assumed by us in undertaking the services, including the amount or value of any property involved;
  - (v) The complexity of the matter and the difficulty or novelty of the questions involved;
  - (vi) The experience, reputation and ability of the lawyer(s) handling your matter;
  - (vii) Market prices for law services for your particular matter;
  - (viii) The reasonable costs of running our practice.

The above factors will be relevant to assessing and setting a fair and reasonable fee.

- (b) If our Agreement for Provision of Legal Services specifies a pre-determined 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 Agreement for Provision of Legal Services. 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) We may enter into a conditional fee agreement with you. If you wish to enter into this type of agreement with us then that arrangement is separately documented.
- 2.2 **Retainer:** We require an advance payment of \$1,000.00 by way of retainer before we commence work, on account of disbursements and expected legal costs. We do not undertake to perform any further work if at any stage our fees and expenses have exceeded the funds paid on account.
- 2.3 **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.
- 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 Arrangements:** 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 our bank would charge for commercial overdraft services plus 2% as at the close of business on the date payment became due. We accept payment by Mastercard and Visa.
- 2.7 **Security:** In addition to our retainer of \$1,000.00 as set out above, 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 our retainer and any other 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. Until you have paid your account in full, we shall be entitled to retain all your deeds, documents and files or the deeds, documents and files of third parties provided to us on your behalf in relation to your work.

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 **Quotations and Estimates:** Quotations can be given for certain types of transactions such as conveyancing. If we are undertaking commercial or court or dispute work, we can only give estimates of the cost, due to the uncertainties involved. Any estimate is exactly that and not a maximum quotation.

### 3. Confidentiality and the Privacy Act

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 will of course not disclose to you confidential information which we have in relation to any other client.

3.3 From time to time we write to our clients with information regarding legal developments and other matters which may be of interest or concern to them and also to maintain our relationship. If you prefer not to receive this information, please let us know.

### 4. Termination

4.1 You may terminate our retainer at any time upon 7 days notice in writing to us.

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 (which includes the inability or failure by you to pay our fee on the agreed basis).

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.

### 6. Conflicts of Interest

6.1 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.

### 7. Duty of Care

7.1 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

8.1 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 will charge an administration fee of 5% of the gross interest derived.

### 9. Limitation of Liability

9.1 As identified in the Information For Clients, we have professional indemnity insurance cover in place. We (which includes partners and employees) shall not be responsible to you for any indirect or consequential loss or damage of any nature whatsoever arising from our negligence, wilful act or default or omission.

### 10. General

10.1 These Terms and Conditions apply to any current engagement and also to any future engagement, whether or not we send you another copy of these Terms and Conditions.

10.2 We are entitled to change these Terms and Conditions from time to time, in which case we will send you amended Terms and Conditions and post them on our website. They shall be binding between us once posted on our website or sent to you.

10.3 Our relationship with you is governed by New Zealand law.

## 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 Agreement for Provision of Legal Services. When payment of fees is to be made is set out in our Terms and Conditions 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 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. 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 a Partner or our Practice Manager. They may be contacted as follows:
  - by letter;
  - by email at [jcurrie@vhp.co.nz](mailto:jcurrie@vhp.co.nz) or [author@vhp.co.nz](mailto:author@vhp.co.nz);
  - by telephone on 09 360-0321.

The New Zealand 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 by mail at PO Box 5041, Wellington 6145 or by telephone on 0800 261 801.

5. **Persons Responsible for the Work:** The names and status of the person or persons who will have the general handling of or overall responsibility for the services we provide for you are set out in our Agreement for Provision of Legal Services.
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 <http://www.lawsociety.org.nz/home> or call the New Zealand Law Society on Telephone 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 Terms and Conditions of Engagement.