

STANDARD 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.

1.1 **Services:** The services we are to provide for you are outlined in our engagement letter.

2.1 **Fees:**

- (a) If our engagement letter specifies an estimated fee, we will charge this for the anticipated scope of our services. We will charge an additional fee for work which falls outside the anticipated scope. We will advise you as soon as reasonably practicable if it becomes necessary for us to provide services outside the anticipated scope and if requested, give you an estimate of the likely amount of the further costs.
- (b) Any cost estimate will be our “best guess” as to what the fees and other costs are likely to be. If the work does not proceed as we had anticipated due to unexpected complications, or if the work proves more complicated than originally anticipated, we will charge for the additional work.
- (c) In fixing our fee, we may take account of the following matters;
 - (i) the time and labour spent;
 - (ii) the skill, specialised knowledge and responsibility required;
 - (iii) the importance of the matter to you, the level of services you require from us and the results achieved;
 - (iv) the urgency and circumstances in which the work is undertaken and any time limits, including time limits imposed by you;
 - (v) the degree of risk assumed by us in undertaking the services including the amount or value of any property involved;
 - (vi) the complexity of the matter and the difficulty or novelty of the questions involved;
 - (vii) the experience, reputation, and ability of the personnel carrying out the work;
 - (viii) the reasonable costs of running a law practice.

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 we will be incurring on your behalf.

2.3 **GST (if any):** Is payable by you on our fees and charges.

2.4 **Credit Limit:** You may be allocated a credit limit which will be:

- (a) confidential between you and our firm (and persons such as barristers and expert witnesses instructed by us with your consent).
- (b) the total amount that we will allow to be owed or due by you at any time.
- (c) able to be increased or decreased or withdrawn by us at any time.

We have the right to make reasonable and confidential credit enquiries from an appropriate information provider.

We may stop doing work (and instruct others to stop doing work) for you if your credit limit is exceeded or if payment is not received by us within 14 days of issue of our invoice. We will have no liability for any loss suffered by you when work is stopped for this reason.

2.5 **Invoices:** Generally property matters will be billed at the time of settlement or on completion of the work although we may send you interim invoices prior to final billing. For other matters we may invoice you on a regular basis.

2.6 **Payment:** Invoices are payable within 14 days of the date of the invoice, unless alternative arrangements have been made with us or we are holding any money for you in which case you authorise us to deduct the amount of the invoice from the money held after providing you with an invoice. 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.

2.7 **Joint and Several Liability:** If the client comprises more than one person then each person is jointly and severally liable for payment of our costs.

2.8 **Guarantor:** If another party is nominated to complete a matter, then the original party will remain liable for our fees and expenses.

2.9 **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.

2.10 **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 and disbursements for which we have provided an invoice.

2.11 **Lien:** Where work has been done by us but we have not been paid by you, then we have the right to retain all documents held on your behalf and correspondence on your files until such time as all amounts owing to us have been paid.

3.1 **Confidentiality:** 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*.

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.

4.1 **Termination:** You may terminate our services at any time.

We may terminate our services in any of the circumstances set out in the Law Society's *Rules of Conduct and Client Care for Lawyers*.

If our services are terminated you must pay us all fees due up to the date of termination and all expenses incurred up to that date.

5.1 **Retention of Files and Document:** You authorise us (without further reference to you) to destroy all files and documents (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.

6.1 **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*.

7.1 **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.

8.1 **Trust Account:** We maintain a trust account for all funds which we received 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 interest earned.

9.1 **General:** These Terms apply to any current engagement and also to any future engagement, whether or not we send you another copy of them.

We are entitled to change these Terms from time to time, in which case we will advise you of the amended Terms.

Our relationship with you is governed by New Zealand law and New Zealand courts have non-exclusive jurisdiction.

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 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 any partner of the firm.

He/she may be contacted as follows:

- by letter;
- by email at mcbreens@mcbreenssolicitors.co.nz;
- by telephoning him/her at 07 834 9995.

The Law Society also maintains a 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 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 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.