

# BARRISTERS ● COMM

Level 7, Legal House  
101 Lambton Quay  
PO Box 5577, Wellington 6140

These terms of engagement are used by the barristers of Barristers.Comm, except to the extent varied by a specific engagement letter.

## **TERMS OF ENGAGEMENT**

These terms of engagement apply except where you and I otherwise agree in writing.

### **Services**

The services I will perform are set out in my engagement letter.

### **Confidentiality**

I will hold all information concerning your business and your instructions to me that I acquire through my work for you in strict confidence. The only exceptions are where you authorise me to disclose such information; where it is necessary or desirable for me to do so to carry out your instructions, or where I must do so by law or by or in accordance with the Law Society's Rules of Conduct and Client Care for lawyers.

I am not able to disclose to you information that I obtain through acting for other clients.

### **My duty of care and liability**

I provide legal advice only.

My duty of care is to you, my client, as named in your instructions to me. I do not owe any duty of care or liability to any other person in relation to the matters on which you have instructed me. Any person other than you may only rely on my advice if I expressly agree.

My liability to you will not exceed 5 times the amount of the fee I have charged you on the particular matter for any one claim up to a maximum of NZ\$5m.

If, during the course of my engagement, I provide services to entities related to or associated with you, then these services will be provided on the terms set out in these terms of engagement.

### **My fees**

My fees will be charged on the basis that they will be fair and reasonable, having regard to the circumstances of the matter and the nature of the work I undertake in providing you advice. While the time involved will be an important factor (my hourly rate for the services is set out in my engagement letter), I will also consider the results achieved, the urgency, the particular level of skill, complexity and expertise required, and the responsibility I am taking in giving my advice.

I will send interim invoices to you, usually monthly. My invoices may include disbursements that I have incurred in relation to providing legal services to you. I may require payment in advance of work being completed.

My invoice will include any New Zealand goods and services tax (GST) applicable to my supply of services to you.

My invoices are payable within 14 days following the date of the invoice. Where I do not receive payment by that date, I may charge you interest at the rate of 5% per annum above my bank's usual lending rate, compounding monthly.

All invoiced amounts are payable in New Zealand dollars unless I otherwise agree.

Where I have an arrangement with you that I will address an invoice to another person, you will pay that invoice if that other person does not pay that invoice.

### **Electronic services and communication**

Where I provide any electronic service to you, or communicate with you by electronic means, I will take reasonable precautions to ensure that those services and communications are accurate, reliable, adequate, complete, confidential and secure. However, I cannot always be certain that those services and communications are error free. Also, because they will in most cases be internet-based, certain risks exist that are outside my control.

Consequently, despite the other provisions of these terms of engagement, I cannot and do not represent or warrant that those services and communications will always be accurate, reliable, adequate, complete, confidential and secure. I also exclude all warranties to the extent permitted by law.

### **Termination**

You may end my engagement at any time on any matter or matters. You do not need to give me any notice. However, where you give me an instruction, and I rely on that instruction, you may not revoke that instruction. I may for good cause, on reasonable notice, end my engagement at any time.

If my engagement is terminated, these terms continue to apply in respect of your instructions and you will pay me all fees incurred up until the time of that termination.

### **Document destruction**

Subject to any legal requirement, I will retain the file that I create for your work on any one matter for a minimum of seven (7) years after I finish working on that matter. I may hold that file electronically rather than physically. After that time, I may destroy the file without contacting you.

If you wish to retain all or part of the paper file (where I have held one), you must advise me in writing before the matter is completed.

Provided you have paid all my invoices on all matters, I will (on request) provide to you all the documents I have obtained or created through working for you on the matter or matters in question. Before I provide those documents to you, I may take a complete copy of them.

Unless otherwise agreed, I retain the copyright in all documents prepared on your behalf in the performance of the services. You are entitled to use such documents and retain copies of documents for the purposes for which they were intended. You may not otherwise make use of such documents, without my consent

### **External information**

In advising you I may rely on or provide you with information from third parties e.g. Government agencies or registers. I do not accept responsibility for such information.

## **Conflict of interest**

I may act for other clients whose commercial interests differ from yours. However, I will not act without your consent for any other client where that client's instructions:

- are substantially related to any active matter on which I am working for you; or
- involve confidential information which I hold on your behalf which would disadvantage you if disclosed to the other client.

## **Complaints**

If you have any concerns or complaints about the provision of services by me, please raise them with me. I am committed to resolving any issues you may have as soon as possible. The New Zealand Law Society also has a service which handles complaints and you may contact them either by telephone or in writing.

## **General**

These terms of engagement apply to any current instruction and to any future instruction, whether or not I send you another copy of them. There is no need for you to sign these terms of engagement in order to accept them; you will accept these terms of engagement by continuing to instruct me to undertake work for you.

I can change these terms of engagement, in which case I will send amended terms of engagement to you.

Any dispute concerning these terms of engagement or my work for you is to be resolved in the New Zealand Courts under New Zealand law.

Where you are a company or other corporate or unincorporated entity, I act only for you. I do not act for your shareholders, directors or members unless I expressly agree otherwise.

In these terms where I am instructed by in house solicitors, "you" means my client. Where I am instructed by an external solicitor, "you" means the client of the instructing solicitor.

## **Information required to be provided by the Law Society Rules of Conduct and Client Care for Lawyers**

### **Insurance**

I hold professional indemnity insurance that meets or exceeds the minimum standards specified by the Law Society. Particulars of the minimum standards are available on request.

### **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.

### **Limitations of Liability**

As set out in my terms of engagement, my liability is limited. As a barrister I am not permitted to receive or hold any money or other valuable property for or on behalf of another person and the Lawyers Fidelity Fund has no application to my provision of services to you