

## **STANDARD TERMS OF ENGAGEMENT**

These standard Terms of Engagement (Terms) apply in respect of all work carried out by Meares Williams Lawyers (us/we) for you, our client. Our Terms apply every time you ask us to provide legal services, except to the extent that we otherwise agree with you in writing.

### **1) Engagement**

- a) You have engaged us to provide you with legal services and authorised us to act as your legal representative.
- b) This engagement applies to you and any other legal entity controlled by you, whether now or in the future, that you instruct us to create or instruct us to act for.
- c) By instructing us or continuing to instruct us, you agree to our Terms.
- d) Our aim is to work with you to provide high quality legal services and excellent customer service. Please do not hesitate to contact our Practice Manager if you wish to provide feedback or make a complaint. Contact details may be found on [www.meareswilliams.co.nz](http://www.meareswilliams.co.nz).

### **2) Our duties**

We have a duty to you to:

- a) act competently, in a timely way, and in accordance with instructions received and arrangements made;
- b) protect and promote your interests and act for you free from compromising influences or loyalties;
- c) discuss your objectives with you and outline how these should best be achieved;
- d) provide you with information about the work to be done, who will do it and the way the services will be provided;
- e) charge you a fee that is fair and reasonable and let you know how and when you will be billed;
- f) give you clear information and advice;
- g) protect your privacy and ensure appropriate confidentiality;
- h) treat you fairly, respectfully and without discrimination;
- i) keep you informed about the work being done and advise you when it is completed;
- j) let you know how to make a complaint and deal with any complaint promptly and fairly.

Our relationship with you is governed by the Rules of Conduct and Client Care for Lawyers (Rules). These can be found in full on the NZ Law Society website [www.lawsociety.org.nz](http://www.lawsociety.org.nz) or by phoning 0800 261 801. Those obligations are subject to other overriding duties, including duties to the courts and to the justice system.

### **3) Confidentiality**

- a) 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:
  - i. to the extent necessary or desirable to enable us to carry out your instructions; or
  - ii. to the extent required by law and/or the Rules.
- b) 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.

### **4) Communications and Privacy**

- a) You authorise us to use the contact details you have provided to communicate with you.
- b) You agree to keep these details updated during the period of our engagement.
- c) You authorise us to collect and hold information about you or your entities that allows us to act effectively for you and to conduct business with you. This includes but is not limited to:
  - i. your personal details – name, contact details, details of identity, identity documents;
  - ii. financial information – bank account or credit card numbers, statements of account, IRD information, company information, asset details and ownership information, loan or mortgage information;
  - iii. deeds and documents – any document or deed, either created by us on your instructions or transmitted to us by you or your agents;
  - iv. should we choose to, you authorise us to disclose your personal and related entity name(s) and contact details in order to obtain identity verification, credit checks or to collect monies owned by you.

### **5) Fees**

- a) We will charge fees for our services and issue invoices to you; or, on your instructions, to your agent.
- b) Our invoicing and payment terms are detailed below. Fees, expenses and costs incurred or payments made by us on your behalf will be charged.
- c) Our fees are established according to the Rules of Conduct and Client Care for Lawyers. The following factors will be taken into account:
  - i. the time and labour expended;
  - ii. the skill, specialised knowledge, and responsibility required to perform the services properly;
  - iii. the importance of the matter to you and the results achieved;
  - iv. the urgency and circumstances in which the matter is undertaken and any time limitations imposed, including those 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 lawyer;
  - viii. the possibility that the acceptance of the particular retainer will preclude engagement of the lawyer by other clients;
  - ix. whether the fee is fixed or conditional (whether in litigation or otherwise);
  - x. any quote or estimate of fees given by the lawyer;

- xi. any fee agreement (including a conditional fee agreement) entered into between the lawyer and the client;
- xii. the reasonable costs of running a practice;
- xiii. the fee customarily charged in the market and locality for similar services.

- d) Fee rates for staff delegated to work on your project will apply. Varying fee rates reflect the experience and specialisation of professional staff. Time spent is recorded in 6 minute units, with time rounded up to the next unit of 6 minutes. Individual rates are adjusted at times and are available on request.
- e) If we specify a fixed fee, we will charge this for the agreed scope of services provided that work is completed within six months. Work which falls outside that scope or time frame will be charged according to the Rules. We will advise you when it becomes necessary for us to extend services outside the agreed scope.
- f) We may require advance payment from you for fees. You agree to provide this within 7 days of notification.
- g) We encourage you to discuss your budget and desired outcomes with us. When possible, we will give you an estimate of fees, disbursements and expenses on request. We will, on request, provide information or updates of the current cost of our services at any time.
- h) If you have instructed us to act for you in respect of litigation, our fees will be payable by you irrespective of the outcome of the litigation. We will act in accordance with your instructions and strive to obtain the best possible outcome for you; however, all litigation involves elements of risk and uncertainty and no assurances can be given as to the outcome.

**6) Disbursements and Expenses**

- a) Disbursements are expenses we incur on your behalf in order to complete legal services for you. These may be costs we incur or payments made to third parties on your behalf. You authorise us to add our margin to any such charges.
- b) These will normally be included in our invoice to you for the period the expense is incurred.
- c) We may require advance payment from you for disbursements or expenses. You agree to provide this within 7 days of such a request.
- d) In addition to disbursements, we may charge up to \$35.00 to cover out of pocket costs which are not included in our fee and which are not recorded as disbursements. These include items such as photocopying and printing, postage, general office expenses. In cases where there are more expensive costs we will charge you for these separately and in addition to our administration fee.
- e) We may also charge up to \$35.00 for AML/CFT Compliance costs incurred in fulfilling our obligations under the AML/CFT Act 2009.

**7) GST (where applicable)**

Is payable by you on our fees and charges.

**8) Invoices**

We may send interim invoices to you, normally monthly, and on completion of the matter, and on termination of our engagement. We may also send you an invoice when we incur a significant expense.

**9) Payment**

- a) Conveyancing invoices are due either 14 days from the invoice date, or on settlement, whichever occurs earlier.
- b) All other invoices are payable within 14 days of the date of each invoice, unless alternative arrangements have been made with us.
- c) We prefer to receive payment by electronic funds transfer directly to our Trust Account. Details are made available to clients. Cash is acceptable.
- d) We reserve the right to charge interest on any amount which is more than 7 days overdue unless prior payment arrangements have been agreed. Interest will be calculated at the rate of 10% 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.
- e) We reserve the right to suspend work on your matter if you do not pay us on time or make alternative payment arrangements with us prior to your account becoming overdue.
- f) You authorise us to deduct our fees, disbursements, expenses and any interest on overdue amounts or debt collection costs from any monies pre-paid by you, or from any funds held on your behalf in our trust account any amounts for which we have provided an invoice.
- g) 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 your third party, you remain responsible for payment and interest if the third party fails to pay us according to our standard payment terms.
- h) Should we be required to incur debt collections costs, you agree to pay these on invoice.

**10) Security**

If we require it, you agree to provide security for our fees and expenses, including a personal guarantee for instructions to act on behalf of entities such as companies or other incorporated bodies.

**11) Court Awarded Costs in Litigation**

An unsuccessful litigation party may be ordered to make payment of costs and expenses in favour of the successful party. Generally, costs are calculated in accordance with a set scale intended to reflect approximately two-thirds of the actual cost. However, this is always at the discretion of the Court, which may order anything from 0% to 100% of the costs actually incurred.

- 12) Whether or not you are successful in the litigation, our fees will remain payable by you in accordance with these Terms, irrespective of the level of any Court costs awarded and the subsequent recovery of those Court costs.
- 13) **Termination**
- You may terminate our engagement by writing to us at any time. We may terminate our retainer in any of the circumstances set out in the Rules.
  - In the event of termination, you must pay us all fees due up to the date of termination and all expenses incurred up to that date.
- 14) **Files and Documents**
- We own the copyright of all documents or outputs created during the course of our engagement. You are authorised to copy and use these documents for the purpose for which they were created only. You may not use documents or outputs we have created as a precedent for other situations unless we agree to this in writing.
  - You authorise us, at our discretion, to retain your files and any documents we hold until all amounts owed to us have been paid in full.
  - If our engagement is terminated, you authorise us to return to you or your representative all files and documents, provided all fees due and expenses incurred have been paid to us.
  - You authorise us (without further reference to you) to destroy any files and documents (other than any documents that we hold in safe custody for you) seven years after our engagement ends, or earlier if we have converted those files and documents to an electronic format.
- 15) **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 Rules. If you know of possible conflicts of interest, you must inform us as soon as you become aware of the possibility.
- 16) **Duty of Care**
- Our duty of care is to you and not to any other person. No other person or entity may rely on the advice we give you unless we expressly agree to this in writing. Also, if your instructions are to assist with regard to the conveyancing on the purchase of a property by you, we will not advise with regard to the commercial prudence of the transaction.
- 17) **Trust Account**
- We maintain a trust account for all funds which we hold on behalf of clients (except monies received for payment of our invoices). Significant funds will normally be lodged in an interest bearing deposit with a bank. In that case we will charge an administration fee of 5% of the interest derived.
- 18) **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.
- 19) **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.
- 20) **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 the firm's Practice Manager, who may be contacted by letter or by email at [law@meareswilliams.co.nz](mailto:law@meareswilliams.co.nz).
  - If you are not satisfied with the way we have dealt with your complaint, the New Zealand Law Society has a complaints service to which you may refer the issue. You can call the 0800 number for guidance, lodge a concern or make a formal complaint. Matters may be directed to - Lawyers Complaints Service, PO Box 5041, Wellington 6140, Phone: 0800 261 801
- 21) **General**
- These Terms apply to any current engagement and, until these Terms are changed, 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. Our current terms and conditions are available from our website: [www.meareswilliams.co.nz](http://www.meareswilliams.co.nz) or on request.
  - Our relationship with you is governed by New Zealand law and New Zealand courts have exclusive jurisdiction.