

## 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. They include information which we are required to provide under the Rules of Conduct and Client Care issued by the New Zealand Law Society in 2008 (Rules of Conduct).

### 1 **Services**

1.1 The services (“**Services**”) we are to provide for you are outlined in our engagement letter along with any further instructions that you provide us in writing (or that we record in writing).

### 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 engagement letter.
- b) If the engagement letter specifies a fixed fee, we will charge this for the agreed scope of 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) Estimates: An estimate is not a quote. Any significant assumptions included in the estimate will be stated and you must tell us if those assumptions are wrong or change. We will inform you if we are likely to exceed the estimate by any substantial amount. Unless specified, an estimate excludes GST, disbursements and expenses.
- d) Where our fees are calculated on an hourly basis, the hourly rates are set out in our engagement letter. The differences in those rates reflect the experience and specialisation of our professional staff.
- e) Hourly fees may be adjusted (upwards or downwards) to ensure the fee is fair and

reasonable to take into account matters such as the complexity, urgency, value and importance of the Services. Full details of the relevant fee factors are set out in Rule 9 of the Rules of Conduct.

- 2.2 Disbursements: 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 which we will be incurring on your behalf.
- 2.3 Office Expenses: Our invoices will also include an amount to cover office expenses such as photocopying, printing, phone calls, faxing, postage and file storage.
- 2.4 GST (if any): Is payable by you on our fees and charges.
- 2.5 Invoices: We will send an invoice to you on completion of the matter, or termination of our engagement. If a matter is carried out over an extended period we will send interim invoices to you, usually monthly. We may also send you an invoice when we incur a significant expense.
- 2.6 Payment: Invoices are payable within 7 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 14 days overdue. Interest will be calculated at the rate of 3% above our firm's business overdraft rate as at the close of business on the date payment became due.
- 2.7 If you have difficulty paying any of our accounts please contact us promptly so that we may discuss payment arrangements.
- 2.8 If your account is overdue we may:
  - a) stop work on any matters in respect of which we are providing Services to you;
  - b) require an additional payment of fees in advance or other security before recommencing work;
  - c) recover from you in full any costs we incur (including on a solicitor/client basis) in seeking to

## TERMS OF ENGAGEMENT

recover the amounts from you, including our own fees and the fees of any collection agency.

2.9 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.

2.10 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.

### 3 Confidentiality

3.2 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) as expressly or impliedly authorised by you;
- c) to the extent required by law or by the Rules of Conduct; or
- d) as necessary to protect our interests in respect of any complaint or dispute.

3.3 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.

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

### 4 Personal Information and Privacy

4.1 Personal information and Privacy: In our dealings with you we will collect and hold personal information about you. We will use that

information to carry out the Services and to make contact with you about issues we believe may be of interest to you. Provision of personal information is voluntary but if you do not provide full information this may impact on our ability to provide the Services.

4.2 Subject to clause 4.1, you authorise us to disclose, in the normal course of performing the Services, such personal information to third parties for the purpose of providing the Services and any other purposes set out in these Terms.

4.3 We may disclose your name and address to third parties such as credit agencies to perform a credit reference or to undertake credit management or collection processes if it is reasonable to do so.

4.4 The information we collect and hold about you will be kept at our offices and/or at secure file storage sites (including electronic file storage sites) elsewhere. If you are an individual, you have the right to access and correct this information.

### 5 Termination

5.1 You may terminate our retainer at any time.

5.2 We may terminate our retainer in any of the circumstances set out in the Rules of Conduct.

5.3 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.

### 6 Retention of Files and Documents

6.1 We will keep a record of all important documents which we receive or create on your behalf on the following basis:

- a) We may keep a record electronically and destroy originals (except where the existence of an original is legally important such as in the case of wills and deeds).
- b) At any time, we may dispose of documents which are duplicates, or which are trivial (such as emails which do not contain substantive information), or documents which belong to us.

## TERMS OF ENGAGEMENT

c) We are not obliged to retain documents or copies where you have requested that we provide them to you or to another person and we have done so, although we are entitled to retain copies for our own records if we wish to do so.

6.2 We will provide to you on request copies or originals (at our option) of all documents to which you are entitled under the Privacy Act 1993 or any other law. We may charge you our reasonable costs for doing this.

6.3 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.

6.4 If this agreement is terminated, we may retain at our cost copies of documents or records which we deliver to you or another lawyer.

6.5 We may, at our option, return documents (either in hard or electronic form) to you rather than retain them. If we choose to do this, we will do so at our expense.

### 7 Intellectual Property

7.1 We retain all ownership rights in all intellectual property of any kind created by us for you. You may not reproduce our intellectual property or provide it to a third party without our express consent.

### 8 Communications

8.1 We will obtain from you contact details, including email address, postal address and telephone numbers. You will advise us if any of your contact details change.

8.2 You agree that we may provide you from time to time with other information that may be relevant to you, such as newsletters and information bulletins. At any time you may request that this not be sent to you.

8.3 We may communicate with you and others at times by electronic means. These

communications can be subject to interference or interception or contain viruses or other defects (“**corruption**”). We do not accept responsibility for, and will not be liable for any damage or loss caused in connection with, or as a consequence of, the corruption of an electronic communication.

### 9 Verification of Identity

9.1 To comply with our legislative obligations, we may require your identity documentation, IRD number and the source of your funds to be verified. In that case, we will not be able to begin work for you until you have provided us with the required information.

### 10 Conflicts of Interest

10.1 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 of Conduct.

### 11 Duty of Care

11.1 Our duty of care is to you and not to any other person. We owe no liability to any other person, including for example any directors, shareholders, associated companies, employees or family members unless we expressly agree in writing. We do not accept any responsibility or liability whatsoever to any third parties who may be affected by our performance of the Services or who may rely on any advice we give, except as expressly agreed by us in writing.

11.2 Our advice is not to be referred to in connection with any prospectus, financial statement, or public document without our written consent.

11.3 Our advice is opinion only, based on the facts known to us and on our professional judgement, and is subject to any changes in the law after the date on which the advice is given. We are not liable for errors in, or omissions from, any information provided by third parties.

11.4 Our advice relates only to each particular matter in respect of which you engage us. Once that

## TERMS OF ENGAGEMENT

matter is at an end, we will not owe you any duty or liability in respect of any related or other matters unless you specifically engage us in respect of those related or other matters.

### 12 Trust Account

12.1 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 may charge an administration fee of 5% of the interest derived.

12.2 Payments out of the trust account will be made either to you or to others with your authority. Written authorisation from you (and if we are acting for more than one of you, from all of you) will be required when payment is to be made to a third party. Before making a payment to another account we may require verification of the account details by provision of (for example) a copy of a deposit slip, cheque or bank statement showing the account number, a signed authority from you including the bank account details, or a signed letter from the relevant financial institution providing bank account details.

12.3 A full record of our trust account is kept at all times. A statement of trust account transactions detailing funds received and payments made on your behalf will be provided to you periodically and at any time upon your request.

12.4 We may be required, under the Foreign Account Tax Compliance Act (“**FATCA**”) and any other Inter-Governmental Agreement to disclose details of trust account funds held on your behalf. You authorise us to make such disclosure if required.

### 13 Variations

We may at any time vary these terms. The varied terms will be posted on our website [www.uml.co.nz](http://www.uml.co.nz). The varied terms will

apply from the time of publication on our website.

### 14 General

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

14.2 To the extent permitted by law, our total aggregate liability to you (whether in contract, tort, equity or otherwise) in connection with our Services is limited to the amount available to be payable under the Professional Indemnity Insurance held by us.

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