

TERMS OF ENGAGEMENT AND CLIENT INFORMATION

Introduction

These terms of engagement apply in respect of all current and future services that we provide to you, except to the extent that we otherwise agree with you in writing.

The terms also include certain information relating to the provision of our services as required by the *Law Society's Rules of Conduct and Client Care for Lawyers*.

Services

The services we are to provide for you are outlined in our Letter of Engagement.

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.

Persons Responsible for the Work

The name and status of the person who will have the general carriage of or overall responsibility for the services we provide for you is set out in our Letter of Engagement.

What customer checks will be done?

We are required to comply with all laws binding on us in all applicable jurisdictions, including:

- the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT Act); and
- the United States Foreign Account Tax Compliance Act, the intergovernmental agreement between the United States and New Zealand relating to it, and relevant provisions of the Tax Administration Act 1994 (together, FATCA).

We will perform customer due diligence and account monitoring, keep records, and report any unusual or suspicious transactions where required by the AML/CFT Act, FATCA, or any other law. We may charge you for undertaking this work, which is incidental to the services that we will provide.

We may also be required to assist any bank or other entity with whom we transact as your agent, or with whom we deposit money on trust for you, to comply with that entity's legal obligations in any jurisdiction.

We will periodically advise you what information and documents are required for these purposes. These purposes may relate to you, any other relevant person (eg any beneficial owner), the source of funds/wealth, the transaction, the ownership structure, tax identification details, and any other relevant matter. Please provide the information and documents requested promptly.

We may retain the information and documents, provide them to a bank or other entity (where applicable) to deal with in accordance with their terms, and disclose them to any law enforcement or regulatory agency or court as required by law.

We or the bank or other entity (as the case may be) may:

- suspend, terminate, or refuse to enter into a business relationship with you;
- delay, block, or refuse to process a transaction (including by refusing to handle and deposit money on trust for you); and
- report a transaction,

without notice to you if:

- the required information or documents are not provided; or
- it is suspected that the business relationship or transaction is unusual, may breach any applicable law, or may otherwise relate to conduct that is illegal or unlawful in any country.

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:

- to the extent necessary or desirable to enable us to carry out your instructions;
- to comply with any legal requirement, including any applicable law, court order, other judicial process, or the requirements of a regulator, and as otherwise required or permitted by law;
- to the extent required by the Law Society's Rules of Conduct and Client Care for Lawyers; or
- to provide our debt collection agency with your contact details and proof of identity in the event you fail to comply with our Terms of Payment; or
- to engage a third party service provider to assist us with our client due diligence.

We will sometimes need to collect, use and disclose personal information about your employees, directors or other people associated with you or with your transactions (including any principals or beneficiaries for whom or for whose benefit you are acting) to carry out your instructions or to comply with any legal requirement. Please make sure that these people are aware that our acting for you may involve collecting, using and disclosing personal information about them.

We will comply with all applicable laws (including the Privacy Act 1993) when we collect, use and disclose personal information about you.

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

Conflicts Of Interest

We have procedures in place to identify and respond to conflicts of interest. If a conflict of interest or potential 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.

Scope of Work

We are not qualified to give:

- investment advice;
- tax advice;
- insurance advice; or
- advice about foreign laws.

Unless we agree to do so in writing, we will not:

- remind you about dates (e.g. PPSR, lease, or consent expiry dates); or
- update advice after it is given.

Fees

The basis on which fees will be charged is set out in our Letter of Engagement. You authorise us 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.

Invoices

We will send interim invoices to you, usually monthly and on completion of the matter, or termination of our engagement. This keeps you informed as to progress to date and fees incurred, as well as spreading payments over time. We may also send you an invoice when we incur a significant expense.

Disbursements and Third Party Expenses

In providing services we may incur disbursements or have to make payments to third parties on your behalf. You authorise us to incur these disbursements (which may include items such as search fees, court filing fees, registration fees and travel and courier charges), which are reasonably necessary to provide services. You also authorise us to make payments to third parties on your behalf which are reasonably required to undertake the services (which may include items such as experts' costs or counsel's fees). These will be included in our invoice to you, shown as "disbursements" when the expense is incurred. We may require an advance payment for the disbursements or third party expenses which we will be incurring on your behalf.

Office Service Charge Fee (Administrative expenses)

In addition to disbursements, we may charge to cover office expenses that are not included in our fees and which are not recorded as disbursements. These include items such as photocopying, printing, phone calls, faxing and postage.

GST (If Any)

Is payable by you on our fees and charges and on expenses and disbursements.

Terms of Payment

Invoices are payable by the 20th of the month following the date of the invoice unless:

- the invoice is stated as payable on settlement of the relevant matter; or
- alternative arrangements have specifically been agreed with us.

If an account is not paid when due, we may elect:

- not do any further work, and to retain custody of your papers or files, until our accounts are paid in full;
- to require an additional payment of fees in advance or other security before recommencing work;
- to charge interest on the outstanding balance at the rate of 2% per month from the date upon which payment was originally due; and/or
- to recover from you in full any costs we incur (including on a solicitor/client basis) in seeking to recover the outstanding amounts from you, including our own fees and the fees of any collection agency.

We reserve the right to provide contact details and proof of identity to our debt collection agency for debt collecting purposes.

Liability for Payment – Companies and Trusts

Each client named in this agreement is jointly and severally liable to us under this agreement. If a client is a Company or Trust, then each person acting on the Company's or Trust's behalf acknowledges that he or she has asked us to supply services to the Company or to them in their capacity as a Trustee of the Trust, that he or she has authority to enter into this agreement on behalf of the Company or as agent for the remaining Trustee/s of the Trust and, in consideration of us supplying services to that Company or Trust, agrees:

- to guarantee the Company's or Trust's payment to us of all money it owes;
- that he or she can be treated by us as a principal debtor for that money; and
- to indemnify us against all costs, losses and liabilities we incur or suffer because the Company or Trust fails to pay us that money.

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.

Trust Account

We maintain a trust account for all funds which we receive from clients (including 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 a commission fee of 10% on the gross interest derived.

If a payment you make into our Trust Account needs to be returned to you, either in full or in part, you authorise our bank services provider, ANZ, to provide us, through its extended transaction reporting service, with the account number from which the original payment was made. We will use this information to return the funds to that account.

Security

We may ask you to pre-pay amounts to us, or to provide security for our fees and expenses. You authorise us:

- to debit against amounts pre-paid by you; and
- to deduct from any funds held on your behalf in our trust account; any fees, expenses or disbursements for which we have provided an income.

Termination

You may terminate our retainer at any time.

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.

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.

Retention of Files and Documents

We may store your files, documents and personal information in any format we choose at our offices or at premises outside our offices, including data storage facilities or online storage located within or outside New Zealand which may be operated by independent service contractors. We will take all reasonable care but do not accept any responsibility and will not be liable for any damage or loss caused by third parties.

If you uplift your files or documents at any time, we may make and keep copies of that material, until disposal, as below.

You authorise us (without further reference to you) to securely destroy any physical file and documents held on that file once your matter has been completed. This does not include any hard copy documents we have agreed to hold in safe custody for you (e.g. your Will).

We will provide you with copies of documents you are entitled to under the Privacy Act or any other legislation if you ask us to. We may charge you our reasonable costs to do so.

We will retain an electronic copy of your file for at least ten years after completion or termination of the matter or longer if required by law. After that time (without further reference to you), we may securely delete the electronic copy, as well.

By providing your email address and/or mobile phone number, you consent to us communicating with you and others by electronic means including via email or text message. These communications can be subject to interference or interception or contain viruses or other defects (corruption). We will take all reasonable care but do not accept any responsibility 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.

Client Care and Service

The Law Society client care and service information is set out below.

Whatever legal services we are providing, we 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.

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.

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 \$100,000.00. 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.

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 our General Manager who is authorised to deal with complaints and may be contacted as follows:

- By letter
- By email: email@gressons.co.nz
- By telephone: 03 687 8004

The Law Society operates the Lawyers 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.

Limitations on Extent of our Obligations or Liability

Our services to you will not include investment, financial or tax advice. Any other limitations on the extent of our obligations to you or any limitation or exclusion of liability are set out in our Letter of Engagement.

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 reserve the right to amend these terms from time to time. The current version of our terms is available on our website. Any amended terms will take effect from the date they are published on our website and will apply to all services provided from that date.

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

WHY WE NEED TO ASK YOU FOR INFORMATION

New Zealand has passed a law called the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (“the AML/CFT law” for short). The purpose of the law reflects New Zealand’s commitment to the international initiative to counter the impact that criminal activity has on people and economies within the global community.

Recent changes to the AML/CFT Act mean that from 1 July 2018 lawyers must comply with its requirements. Lawyers must do a number of things to help combat money laundering and terrorist financing, and to help Police bring the criminals who do it to justice. The AML/CFT law does this because the services law firms and other professionals offer may be attractive to those involved in criminal activity.

The law says that law firms and other professionals must assess the risk they may face from the actions of money launderers and people who finance terrorism and must identify potentially suspicious activity.

To make that assessment, lawyers must obtain and verify information from prospective and existing clients about a range of things. This is part of what the AML/CFT law calls “customer due diligence”.

CUSTOMER DUE DILIGENCE REQUIREMENTS

Customer due diligence requires a law firm to undertake certain background checks before providing services to clients or customers. Lawyers must take reasonable steps to make sure the information they receive from clients is correct, and so they need to ask for documents that show this.

We will need to obtain and verify certain information from you to meet these legal requirements. This information includes your:

- full name;
- date of birth; and
- address.

To confirm these details, documents such as your Driver Licence or your birth certificate, and documents that show your address - such as a current bank statement - will be required.

If you are seeing us about company or trust business, we will need information about the company or trust including the people associated with it (such as directors and shareholders, trustees and beneficiaries).

We may also need to ask you for further information. We will need to ask you about the nature and purpose of the proposed work you are asking us to do for you. Information confirming the source of funds for a transaction may also be necessary to meet the legal requirements.

IF YOU CANNOT PROVIDE THE REQUIRED INFORMATION

If we are not able to obtain the required information from you, it is likely we will not be able to act for you. Because the law applies to everyone, we need to ask for the information even if you have been a client of ours for a long time.

Please contact the lawyer or Legal Executive who will be undertaking your work, if you have any queries or concerns.