

INFORMATION FOR CLIENTS

1. Introduction

1.1 Set out below is the information which the Rules of Conduct and Client Care for Lawyers of the New Zealand Law Society (the **NZLS Rules**) requires us to provide to you.

2. Fees:

2.1 The basis on which fees will be charged, and when payment of fees is to be made, are set out in paragraph 6 of our Terms of Engagement.

3. Complaints:

3.1 If you have a complaint about us or our services, you may:

- (a) refer your complaint to the person in the firm who has overall responsibility for your work;
- (b) if you prefer not to raise your complaint with that person, or you are not satisfied with that person's response, refer your complaint to Graham Harford, Managing Director who may be contacted as follows:
 - (i) by letter;
 - (ii) by email:
graham.harford@dawsonharford.com;
 - (iii) by telephoning our offices (+64 9 355 0088).

3.2 We are committed to resolving any issues as soon as possible.

3.3 You can also contact the New Zealand Law Society's Lawyers Complaint Service at Level 4, 17 Whitmore Street, Wellington or telephone 0800 261 801.

4. Professional Indemnity Insurance

4.1 We hold professional indemnity insurance that exceeds the minimum standards specified by the New Zealand Law Society. We will provide you with particulars of the minimum standards and actual cover upon request.

5. Lawyers' Fidelity Fund

5.1 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.

6. Persons Responsible for the Services

6.1 The names and status of the person or persons who will have the general carriage of, or overall responsibility for, the services we provide to you are set out in our engagement letter.

7. Limitations on our Obligations or Liability

7.1 Our Terms of Engagement contain limitations on the extent of our obligations to you and limitations on, and exclusions of, our liability.

8. Client Care and Service

8.1 The New Zealand Law Society Client Care and Service Information is set out below:

Whatever legal services your lawyer is providing, he or she must:

- (a) act competently, in a timely way, and in accordance with any instructions received and arrangements made;
 - (b) protect and promote your interests and act for you free from compromising influences or loyalties;
 - (c) discuss with you your objectives and how they 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 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; and
 - (j) let you know how to make a complaint and deal with any complaint promptly and fairly.
- 8.2 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.
- 8.3 If you have any questions, please visit www.lawsociety.org.nz or call 0800 261 801.

TERMS OF ENGAGEMENT DAWSON HARFORD LIMITED

1. **Introduction**
 - 1.1 These Terms of Engagement (**Terms**) apply to our relationship with you, except to the extent that we agree otherwise in writing with you (whether generally or in respect of a specific instruction).
 - 1.2 If we agree to provide services to any person or legal entity on your instructions (an **Associate**), those services will be provided on the terms set out in these Terms. In consideration of the Associate receiving the benefit of our advice, you will be deemed to have represented to us and warranted you have express authority to bind the Associate to these Terms and that these Terms have been accepted on behalf of, and as agent for, all of your Associates.
 - 1.3 If at any time after we agree to provide any legal services to you or any Associate, we are legally obligated to provide any reports and/or collate and/or provide information to any governmental authority or body, you agree to pay us for all time expended by us and costs incurred in our complying with any such requests on the same basis as if you had instructed us to comply with any such legal obligation. Our rights under this clause apply regardless of whether or not you object to our complying with any such obligation and whether or not we inform you of the steps we take to comply with such legal obligations.
2. **Authority**
 - 2.1 We have the usual authority of a lawyer to act on your behalf in relation to each instruction we accept. This includes your authority, where reasonable, to incur expenses; engage law firms in other regions or jurisdictions; and engage external barristers or experts.
3. **Confidential Information**
 - 3.1 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 this information to any other person except:
 - (a) to the extent necessary or desirable to enable us to carry out your instructions;
 - (b) as permitted by these Terms (which disclosure is deemed to be authorised by you); or
 - (c) to the extent required by law or by the Law Society's Rules of Conduct and Client Care for Lawyers.
- 3.2 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.
- 3.3 Possession of confidential information will not preclude us acting for any other person.
- 3.4 You are not entitled to any confidential information we have or obtain in relation to any other client or prospective client.
4. **Conflicts**
 - 4.1 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 Law Society's Rules of Conduct and Client Care for Lawyers.
 - 4.2 New Zealand has relatively small commercial and legal markets. As far as possible, clients should be able to retain their lawyer of choice. Our acting for you will therefore not restrict us from acting for another client, even if that other client's interests may be adverse to yours, including other clients who operate in the same market as you or who may otherwise compete with you. We will not be required to obtain any further consent from you to act for that other client. However we will not act without your consent for any other client where that client's instructions:
 - (a) are substantially related to any active matter on which we are working for you; or
 - (b) involve confidential information which we hold on your behalf that would disadvantage you if disclosed to the other client and there is a real risk that the personnel within our firm who would act for that other client would obtain that information.
 - 4.3 If you believe a conflict of interest has arisen or may arise, please inform us immediately.
5. **Services and Advice**
 - 5.1 The services we are to provide to you are set out in our letter of engagement.
 - 5.2 Our duty of care is to you and not to any other person. Unless otherwise agreed, or required by law, our duties will not extend to any other person.

- 5.3 Any advice given by us is:
- (a) solely for your benefit and may not be relied on by any other person unless we agree to that in writing;
 - (b) not to be disclosed, referred to or used other than for the purpose for which it was sought;
 - (c) not to be made public or published;
 - (d) limited to the matters stated in it;
 - (e) limited to and governed by New Zealand law; and
 - (f) subject to changes in the law after the date it is given.

5.4 We will not advise you as to taxation issues, however we can assist you in obtaining such advice.

5.5 We are only qualified to advise on New Zealand law. If we assist you on matters governed by foreign law, we do so on the basis that we do not accept any responsibility in relation to your position under that foreign law, whether or not we have obtained foreign law advice on your behalf.

5.6 In undertaking services for you, we may be required to obtain and rely on external information or public records, including government registries. This information may not always be accurate or complete. We do not accept responsibility and will not be liable for any damage or loss caused by errors or omissions in external information or public records.

5.7 Our name and advice may not be used in connection with any offering document, financial statement, report, or other public document without our written consent. Unless required by law, you may not provide our advice to any third party or file our advice with any governmental agency without our prior written consent.

5.8 When our instructions on a matter are completed, our representation of you will end. We are not obliged to notify you of any subsequent change of law, or to provide any further services related to that matter.

6. Fees

6.1 The fees we will charge or the manner in which they will be arrived at, are set out in our engagement letter. Our fees are charged on the basis of the NZLS Rules which require that fees be fair and reasonable for the services provided. Unless otherwise agreed with you at the start of our engagement, we do not provide itemised or hourly breakdowns of our attendances on matters.

We may change our rates for fees and services from time to time. At regular periods (usually monthly) we will provide you with our invoice and, if applicable, a statement of funds which we have handled on your behalf.

We can provide fee estimates or quotes. A fee estimate is a guide only of likely fees and is not a fixed quote. Any estimate is given, based on our experience with similar matters, the scope of work, any relevant assumptions set out in the estimate, and the following assumptions:

- (a) your instructions are complete and accurately describe our role;
- (b) the matter will proceed and be completed in the manner anticipated in your instructions and within any indicated timeframe, or otherwise within a usual timeframe for that type of work;
- (c) you will, in a timely and efficient manner, provide any information or instructions required by us in order to provide the services;
- (d) no unforeseen impediments will arise and require additional work;
- (e) all parties and other advisers involved in the matter will be co-operative and will not be unreasonable; and
- (f) any third party or regulatory consents or approvals will be given in a timely manner and will not involve protracted negotiations.

Special fee arrangements can be made to meet the particular requirements of any transaction. These can include success fees, fixed fees and capped fees.

We recommend that you discuss with us the exact nature of the work and the manner in which it is to be undertaken. Sometimes an acceptance by you of transaction risks could reduce legal costs involved.

Any work you ask us to do outside the scope of any estimate, quote or capped fee arrangement will be charged for separately.

6.2 Disbursements (such as courier costs, Ministry of Justice, Ministry of Business, Innovation and Employment and Land Information New Zealand search and registration fees) and other external costs (such as the costs of experts, overseas lawyers and barristers) are charged separately from our fees and are itemised on our invoices. If we are required to expend significant amounts on disbursements or other external costs, we may request you pay these to us in advance.

Our charges for office services (photocopying, faxing, phone calls, file storage and the like) are

generally established by reference to a scale of charges based on the fee value of the invoice.

Travel and accommodation will usually be booked through our travel agency, who will bill us. You must reimburse us the amount billed.

6.3 Our fees and charges are plus GST (if any), which is payable by you.

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

6.5 Our invoices are to be paid by you within 14 days of invoice unless otherwise arranged with us.

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

6.7 If payment of our invoice by you is overdue, we may:

(a) not perform any further work for you until all unpaid invoices are paid in full;

(b) retain custody of any of your property (including documents or files) until all unpaid invoices are paid in full;

(c) charge interest on any amount overdue at a rate of 15% p.a.

6.8 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.

6.9 You agree to pay us for time expended in meeting compliance requests from any and all statutory and regulatory authorities at any time.

7. Trust Account

7.1 We maintain separate trust accounts for all funds which we receive from or for the benefit of clients (except for funds which are for payment of our invoices).

7.2 If it is necessary for us to hold significant amounts on your behalf, we may lodge those funds on interest earning deposit with a registered bank.

We may charge an administration fee of 5% of the net interest earned.

7.3 We may deduct from funds held on your behalf in our trust account any fees, costs or disbursements for which we have provided an invoice. If we instruct counsel or a third party and it is a term of their engagement that you pay monies into our trust account on account for their costs and disbursements, you agree that we may make such payment from the funds held on your behalf in our trust account without the need for further approval.

7.4 If funds are transferred to our trust account from you or for your benefit in a foreign currency, we will convert those funds into New Zealand dollars at the prevailing exchange rate offered by our bank. We are not responsible for seeking or obtaining a better exchange rate from any other bank or financial institution. Any bank fees incurred in relation to the receipt of funds from outside of New Zealand or on the exchange of a foreign currency into New Zealand dollars are for your account.

7.5 You acknowledge that, before we are able to conduct a trust account transaction for you, we may be required by law to obtain information about you, which may include the verification of your identity or the identity of any person who controls you. In addition, our bank is required by law to obtain certain information about you if you conduct a trust account transaction with us, including in connection with the requirements of the Foreign Account Tax Compliance Act (USA) and/or the OECD's Common Reporting Standard. You consent to the disclosure of all such information by us to our bank, to the Inland Revenue Department and to any other person or authority to whom we may be required by law to make such a disclosure and you waive any right you may have to be advised of such disclosure. You must provide all such information on request. We will have no liability to you if we cannot conduct a trust account transaction because you have not provided us with the required information to our satisfaction.

7.6 You acknowledge that we may be required by law to disclose information about a trust account transaction including where disclosure is required by anti-money laundering and countering the financing of terrorism rules. If we are required to make such a disclosure, we will only do so to an appropriate person and only to the extent reasonably necessary or required. You consent to us making, and waive whatever right that you may have to be advised that we have made, a disclosure of this nature.

7.7 In making any trust account transaction for you, we may rely on any instruction purporting to be signed by you or on your behalf or otherwise

- given by you (including email instructions that appear to be sent by you or by a person on your behalf). We are not required to verify any such instructions.
- 7.8 We will have no liability to you for the loss of any amount deposited with us by you or on your behalf where the loss results from the insolvency, restructuring, act, omission, neglect, delay or default of a financial institution.
- 7.9 Our trust account is not audited.
- 7.10 Our trust account records are not protected by legal privilege.
- 8. Termination**
- 8.1 You may terminate our engagement at any time. We may terminate our engagement in the circumstances permitted by the NZLS Rules or if we are required under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (the **AML CFT Act**) or any other legislation.
- 8.2 You must pay us for those services we have provided, and all expenses we have incurred, up to the date of termination.
- 8.3 Clauses 3, 4, 5.3, 5.7, 7.6, 9, 10, 11, 12, 13, 14, 15 and 16 together with those other provisions of these Terms which are incidental to, and required in order to give effect to those clauses, will survive termination of our engagement.
- 9. Anti-Money Laundering**
- 9.1 You agree to provide any information we require in order to manage our anti-money laundering and countering of financing of terrorism obligations.
- 9.2 Furthermore, you agree that we may refuse to establish a business relationship with you, or may be required to stop or suspend providing services to you, if you fail to provide this information to us in the timeframe we specify.
- 10. Retention of Documents**
- 10.1 We will retain our files on a matter and any documents you leave with us for at least ten years after the end of our involvement in the matter. Except for any documents which we agree to hold in safe custody for you, we may:
- (a) destroy all physical files, records and documents at any time after completion of the matter provided we have converted those files and documents to an electronic format; and
- (b) destroy all files and documents (whether physical or electronic) ten years after the end of our involvement in the matter.
- 10.2 We may store files and documents in any format we choose and at premises outside our offices, including online storage located within or outside New Zealand, which may be operated by independent service providers.
- 10.3 We are not liable for any loss or damage caused to files or documents that are stored outside our offices.
- 10.4 If our engagement is terminated, we may retain copies of documents or records which we deliver to you or to another lawyer. If we do this, we will pay the cost of producing copies.
- 11. Intellectual Property**
- 11.1 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.
- 12. Information About You**
- 12.1 We may collect and retain information about you as part of providing services to you. We will use this information to provide services to you, to inform you of changes in our business, to advise you of matters that we reasonably believe may be of interest to you and to advise you of matters that may impact on the way in which we may in the future provide services to you.
- 12.2 You agree that we may store your information in any format we choose at our offices or a 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.
- 12.3 If you are an individual, you have the right at any time to have access to any information we hold about you and to ask us to correct any incorrect information.
- 12.4 Furthermore and notwithstanding clauses 3.1 and 3.2, you authorise us to collect, hold, use and disclose information as required by the AML CFT Act or as required by other regulatory provisions.
- 13. Limitation of Liability**
- 13.1 To the extent permitted by law, our aggregate liability to you and any and all of your Associates (whether in contract, equity, tort (including negligence) or otherwise) arising out of your engagement of us on a matter (or any series of related matters) is limited to the greater of:
- (a) the amount available to be paid out and actually paid out under any relevant insurance held by us, up to a maximum of NZ\$10,000,000; and
- (b) the amount of three times our fees applicable to the relevant matter

(excluding our service charges, disbursements and GST).

13.2 The dollar amounts set out in the above clause are inclusive of interest, costs and any GST if applicable, and reference to our fees means the fees actually paid by you to us.

13.3 In any event, we will not be liable:

(a) in respect of any incidental, indirect, special, punitive or consequential damages or loss of any kind (including loss of profits) relating to any work performed for you; or

(b) to the extent that any damages or loss is caused or contributed to by your conduct, or the conduct of your officers, employees or agents.

13.4 If in connection with providing services to you we permit reliance on our advice (including a legal opinion or a due diligence report) by any person other than you (**Third Party**), then that Third Party is deemed to be your Associate. For the avoidance of doubt, this means that any liability we may have to a Third Party will be included when assessing our aggregate liability to you.

13.5 For the purposes of any claim against us, as defined by the Limitation Act 2010, which claim arises directly or indirectly in connection with the services that we provide to you, you agree that any claim must be filed by you within 24 months after the date of the act or omission on which the claim is based. In addition, the late knowledge provisions in sections 11(2), 11(3), 14 and 32(2) of the Limitation Act 2010 do not apply. The 24 month time period applies whether or not loss or damage has become apparent or has been suffered within that time period.

13.6 By engaging us, you agree that the limitations of liability set out in this clause 13 are fair and reasonable.

14. **Dawson Harford Limited is solely liable for our services**

14.1 Dawson Harford Limited is the sole person liable to you and your Associates, in connection with our services.

14.2 The directors and employees of Dawson Harford Limited provide services on behalf of Dawson Harford Limited, and not in a personal capacity. No current or former director or employee of Dawson Harford Limited (**Staff**) will have any liability to you, to any of your Associates, or to any other person in connection with our services.

14.3 You will not, and will ensure that your Associates do not, make a claim of any nature, or take any action against, any of our Staff in connection with

our service and you (on your own behalf, and on behalf of your Associates) irrevocably waive, release and discharge each of our Staff from, any claim of that nature.

14.4 Without limiting any other provision of these Terms, if a court, or administrative body, of competent jurisdiction determines that any of our Staff is liable to you or any of your Associates for a claim (or series of related claims) in connection with:

(a) our services; or

(b) any act or omission of the Staff member undertaken in that person's capacity as a director or employee of Dawson Harford Limited,

then the Staff member's aggregate liability to you, together with your Associates, for that claim (or series of related claims) is limited to and will not exceed NZ\$100.

14.5 Nothing in this clause prevents you from making a complaint about our Staff to the New Zealand Law Society under the NZLS Rules.

15. **Indemnity**

15.1 To the extent permitted by law, you agree to indemnify us, and our Staff, and to hold each harmless against any liability, loss, damage, cost or expense (including legal expenses) suffered or incurred in connection with any third party claims against them arising out of or in connection with our services.

For this purpose, a **third party claim** is any claim, investigation, inquiry or proceeding against or into us and/or any of our Staff in connection with services we provide to you which is brought or made by any person other than you.

For the avoidance of doubt, this indemnity does not apply to any claim that you make against us but does encompass claims made by your Associates.

15.2 You agree to indemnify us for all time we expend and all costs internal and external in the provision of information concerning you and your legal matters to any governmental or regulatory body of which we are required to supply information on your behalf as set out in clauses 1.3 and 6.9.

16. Clauses 14 and 15 (together with any other provisions of these Terms necessary to give effect to those clauses) are for the benefit of, and may be enforced by our Staff.

17. **Electronic Communications**

17.1 We may communicate with you, your Associates 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.

18. **General**

18.1 Our relationship with you is governed by New Zealand law and New Zealand Courts have exclusive jurisdiction.

18.2 We may change these Terms at any time, and will publish the changed Terms on our website. The change will bind you in respect of any matters on which we accept instructions or continue to accept instructions after publication of the change.

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

18.4 We are required by law to comply with the NZLS Rules. If any provision of these Terms is found to not comply with the NZLS Rules, then these Terms will be deemed to be modified to the minimum extent necessary to comply with the NZLS Rules.

18.5 If any provision of these Terms is held by a court or administrative body to be illegal, void or unenforceable, then that provision will be deemed to be modified to the minimum extent necessary to render it legal, valid, and enforceable and the remaining provisions of these Terms will remain in full force.

19. **Independent Advice**

19.1 These terms modify some of the duties owed by lawyers to their clients. We recommend that you seek independent legal advice before accepting them.