

Standard Terms of Engagement



These Standard Terms of Engagement ("*Terms*") apply to all services provided by KM Law to you unless we otherwise agree in writing with you.

Scope of Engagement

At the beginning of an engagement we will provide you with a letter of engagement setting out our understanding of the legal services you are requesting from us. The member of the firm sending the Terms will have overall responsibility for the legal services provided to you.

Privacy and Confidentiality

In the course of providing legal services we will collect and hold personal information about you and/or your business. The information we collect will be kept on our computer system within a secure NZ based cloud storage facility or in files that are stored on our premises or in secure storage.

We will maintain lawyer/client confidentiality at all times but reserve the right to disclose your name and address to a credit agency to perform a credit reference or for other credit management processes. You have the right to access and if necessary correct any information we hold about you. If you require access, please contact us.

Electronic Communications

We may communicate with you and others at times by electronic means. As you are aware electronic communications can be subject to delays, non-delivery, or being read, copied or interfered with in transit or contain viruses or other defects (together referred to as "the defects"). We will not be responsible for any of the risks associated with electronic communication.

Fees

The fees we will charge (or the manner in which they will be calculated) will be set out in our engagement letter. GST (if any) is payable on our fees and charges.

If the engagement letter specifies a fixed or capped fee, we will charge this for the agreed scope of our 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.

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. Time spent is recorded in 6 minute units, with time rounded up to the next unit of 6 minutes.

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 or expenses which we will be incurring on your behalf.

Payment

Invoices are payable within 14 days of the date of the invoice, unless alternative arrangements have been made with us in writing. 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 invoice.

Although you may expect to be reimbursed by a third party for our fees and charges you remain responsible for the payment to us.

Overdue Accounts

If an account is not paid on the due date, we reserve the right to charge interest (at the rate of 15% per annum), to suspend the engagement until the account is brought up to date or to terminate the engagement.

We also reserve the right to take our fee by deduction from any funds we are holding in our trust account for you in respect of the overdue matter or any other matter. You are liable for any other costs, including solicitor/client costs, we may incur in collecting an overdue amount.

Trust Account

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 funds on your behalf, we may lodge those funds on interest bearing deposit with a bank. We will charge commission of 5% of the gross interest derived. It would be beneficial for us to have your IRD Number on our records as otherwise we have to deduct resident withholding tax at the non-declaration rate (currently 33%).

Personal Guarantee

If you are instructing us on behalf of or in relation to another entity, such as a company, trust or incorporated society, you personally guarantee payment of our costs and disbursements in the event that such entity defaults in payment.

Conflicts of Interest

If we believe we may be placed in a conflict of interest situation we may terminate the engagement and refer you to another lawyer.

Files and Documents

We will store documents electronically on our computer system within a secure NZ based cloud storage facility and/or in hard copy. We may agree to psychically store Deeds, Wills and/or Agreements etc. for you.

You own (although we own the copyright) all documents we have created for you in the course of the engagement (e.g. letters, agreements, deeds etc.). We own documents we have created for our own use in performing the engagement (e.g. file notes, drafts, research etc.).

Paper files and documents (if any) may be stored for seven years (or in the case of conveyancing files – 10 years) after which they will be destroyed. We have your authority to destroy files and documents at an earlier time if we have converted those files and documents to an electronic format.

Professional Indemnity Insurance

We hold current Professional Indemnity Insurance that meets the minimum standards specified by the New Zealand Law Society.

Lawyers' Fidelity Fund

This fund exists to provide compensation for clients who suffer a pecuniary loss when a lawyer misappropriates money or property while they are providing legal services or acting as a solicitor-trustee.

Complaints

If for any reason you are not satisfied with the service you receive from our us, please raise this with the lawyer you are working with. If you are not satisfied with their response, please contact our Principal. If your complaint cannot be resolved you have the right to refer the matter to the Law Society, which operates a complaints service. The telephone number for the Law Society complaints service is 0800 261 801.

Termination of Engagement

You are entitled to terminate your instructions to us upon giving reasonable notice.

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.

You are welcome to uplift your file provided all fees and expenses have been paid. Please give us reasonable written notice if you wish to uplift your file. We reserve the right to exercise a general lien over any files and documents we hold on your behalf while you owe us money.

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 in writing to this arrangement.

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 are entitled to change these Terms from time to time, in which case we will send you amended Terms.

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

Client Care and Service Information

Whatever legal services we provide we will:

- 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 the justice system.

If you have any questions, please visit www.lawsociety.org.nz or call 0800 261801