

Standard Terms of Engagement and Client Care and Service Information

STANDARD TERMS OF ENGAGEMENT

1. INTRODUCTION

These terms of engagement are the standard terms which govern the relationship between us and our clients.

They include 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.

In these terms "we" or "us" or "our" refers to Brown Partners and "you" means the client or potential client of Brown Partners.

2. APPLICATION

These terms apply to our relationship with you. There is no need for you to sign these terms of engagement in order to accept them; you will accept them by continuing to instruct us to work for you.

If these terms of engagement are inconsistent with any other written agreement we have made with you (whether generally or in respect of a specific instruction) then that other agreement prevails over these terms.

3. SCOPE

We will represent and advise you on the legal matters that properly fall within the scope of your instructions. We will act in accordance with your instructions and any applicable professional legal obligations.

Our duties are owed to you and, unless expressly agreed otherwise in writing, or required by law, those duties will not extend to any other person.

We will 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.

We are only qualified to advise on New Zealand law. If we assist you in respect of matters governed by foreign law, we do so on the basis that we do not accept any responsibility in relation to your legal position under that foreign law.

4. CONFIDENTIAL INFORMATION

We will not disclose to any other person any confidential information which we obtain as your lawyers except to the extent required by law or the NZLS Rules or where you authorise us to do so.

Naturally, the reverse applies and we are not able to disclose to you information that we obtain acting for other clients.

5. CONFLICTS

We will comply with the NZLS Rules in respect of conflicts of interests.

Our acting for you will not restrict us from acting for another client in relation to any separate matter, even if that other client's interests may differ from yours.

If you believe a conflict of interest has arisen or may arise, please inform us immediately.

6. ADVICE AND OUR SERVICES

6.1 Any advice given by us is:

- (a) solely for your benefit. It 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.

6.2 We are not responsible for advising you on any taxation matters.

6.3 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.

6.4 When our instructions on a matter are completed, our representation of you in respect of that matter 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.

7. FINANCIAL

7.1 Professional fees

Our fees are charged on the basis of the NZLS Rules which require that fees be fair and reasonable for the services provided.

Generally, our fees will reflect the time we spend on a matter. They may be adjusted to reflect other factors (such as the results achieved and the urgency, level of skill, complexity, responsibility and specialist knowledge required) as permitted by the NZLS Rules.

We may change our rates for fees and services from time to time.

We can provide fee estimates, when requested. These operate as a guide only and are not fixed quotes. Special fee arrangements can be made by separate agreement to meet the particular requirements of any transaction.

7.2 Office services and disbursements

Our fees for professional services incorporate the overhead cost of secretarial, word processing and other such assistance provided to our lawyers.

Disbursements (such as travel and accommodation costs, courier costs, Ministry of Justice, Ministry of Economic Development and Land Information NZ search and registration fees) and other external costs (such as experts, overseas lawyers and barristers) are charged separately from our fees and itemised on our invoices.

If we are required to expend significant amounts on disbursements or other external costs, we may request

you pay these in advance. Alternatively, we may render a disbursement invoice to you when the expense is incurred.

Our invoices will usually include an office services charge to cover the cost of routine photocopying, printing, binding, faxing, telephone communications and the like. This charge is usually made at a standard rate based on the fee value of the invoice.

7.3 GST

Our invoices will include any New Zealand Goods and Services Tax (GST) applicable to our supply of services to you. This GST will be payable by you.

7.4 Invoices

At regular periods (usually monthly) we will provide you with an invoice in respect of our work for you. We will also issue an invoice on completion of your matter, or on completion of our representation of you on a matter.

All invoiced amounts are payable in New Zealand currency, unless specified or we agree otherwise.

7.5 Payment

Our invoices are payable within 7 days of receipt. Please raise any issues with us prior to the due date for payment.

7.6 Security

We may ask you to pre-pay amounts to us, or to provide security for expenses and our fees. We will have your authority to draw on the amounts paid towards our fees and expenses, as they become due.

7.7 Trust Account

Our firm maintains separate trust accounts for all funds which it receives from clients (except for funds which are for payment of our invoices).

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. If we deposit funds on your behalf, we will need either your IRD number or a copy of your interest withholding tax exemption certificate.

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.

7.8 Unpaid invoices

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

- (a) deduct our fees from any money we are holding on your behalf;
- (b) not perform any further work for you until all unpaid invoices are paid in full;
- (c) retain custody of any of your property (including documents or files) until all unpaid invoices are paid in full;
- (d) charge interest on any amount overdue at a rate of no more than 5% p.a. above the prevailing business lending base rate of the firm's bankers.

You must pay our invoices whether or not you have a right of indemnity or recovery from a third party.

8. TERMINATION

You may terminate this agreement at any time. We may terminate this agreement in the circumstances permitted by the NZLS Rules.

You must pay us for what we provide, and all expenses we have incurred, up to the date of termination.

9. RETENTION OF YOUR DOCUMENTS

You may leave documents in our possession after conclusion of your matter. However, we may destroy files seven years after a matter is completed. If you do not retrieve your documents within that period, we have your authority to destroy them.

If this agreement 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.

10. INTELLECTUAL PROPERTY

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.

11. ELECTRONIC COMMUNICATIONS

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.

12. COMPLAINTS

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

- (a) refer your complaint to the partner in the firm who has overall responsibility for your work;
- (b) if you do not wish to refer your complaint to that person, or you are not satisfied with the response received from that person, refer your complaint to another partner of the firm.
- (c) You may also make a complaint to the complaints service established by the New Zealand Law Society. To do so, you should contract the New Zealand Law Society at P O Box 5041, Lambton Quay, Wellington 5145, or telephone 04 472 7837.

13. INSURANCE

We hold indemnity insurance that exceeds the minimum standards specified by the New Zealand Law Society.

14. FIDELITY FUND

The New Zealand Law Society maintains the Lawyers' Fidelity Fund to provide protection against client losses arising from theft by lawyers. The maximum amount which the Fidelity Fund can compensate you is \$100,000. The Fidelity Fund will not usually cover loss relating to money a lawyer is instructed to invest on behalf of a client.

15. CHANGES

We may change these terms of engagement at any time. We will publish the changed terms on our website. The change will bind you in respect of any matters on which we accept instructions after publication of the change.

16. GOVERNING LAW

These terms of engagement are governed by New Zealand law and any dispute concerning these terms, or our work for you, is to be resolved in the New Zealand Courts under New Zealand law.

CLIENT CARE AND SERVICE INFORMATION

We are committed to complying with the NZLS Rules in respect of client care and service. The following information describes some key elements of those Rules.

Whatever legal services we are providing, we must:

- Act competently, in a timely way, and in accordance with any 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 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 fairly and promptly.

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 in this respect, please visit www.nz-lawsoc.org.nz or call 0800 261 801.