

STERLING LEGAL TERMS OF ENGAGEMENT

1. Introduction

- 1.1 These Terms of Engagement ("Terms") apply in respect of all legal and related services Sterling Legal Limited ("we") carry out for our clients ("you"). Any deviation from, or variation of these terms must be agreed by the parties in writing.
- 1.2 These Terms apply subject to any additional or alternative terms that may be agreed with you in writing. We have included certain information relating to the provision of our services as required by the "Law Society's Rules of Conduct and Client Care for Lawyers".

2. Services

- 2.1 The services that we provide to you are outlined in our "Letter of Engagement".
- 2.2 All services are performed in accordance with the requisite professional and legal obligations. We will always act with due care and skill.
- 2.3 We will make our best endeavours to ensure that all matters and issues are understood by you, and you are given the best possible advice. Failure to provide us with necessary information may prevent us from providing service to you and/or limit the quality of services provided.

3. Who We Can Accept Instructions From

- 3.1 Unless you advise otherwise:
 - (a) If you are a company, we can accept instructions from any of your directors, or another person a director has authorised to instruct us.
 - (b) If you are a trust, we will only accept instructions from any of your trustees.
 - (c) If you are a partnership, we will only accept instructions from any of your partners.
 - (d) If you are a couple, we can accept instructions from either of you.

4. Verifying Your Identity and Provision of Personal Information

- 4.1 In some circumstances we are required by law to verify your identity. You agree that you will, upon request provide us with all personal information that we may reasonably request of you, including (but not limited to) place of residence, Photo ID and your IRD number.

5. Duty of Care

- 5.1 Our duty of care is to you as the client and not to any other person. No other person, including any person associated with you may rely on any of our advice, unless we expressly agree otherwise in writing.

6. Persons Responsible for the Work

- 6.1 The name(s) and position of the person(s) who will have the general carriage of and/or the overall responsibility for the services we will provide you are set out in our letter of engagement. We reserve the right to involve other lawyers, legal executives and/or legal assistants to ensure you obtain the best possible advice.

7. Confidentiality

- 7.1 We will hold in confidence all information considering your affairs that we acquire while acting for you. We will not disclose any of this information to any other person, except:
 - (a) To the extent necessary or desirable to carry out your instructions; or
 - (b) To the extent required by the law or by the *Law Society's Rules of Conduct and Client Care for Lawyers*.

- 7.2 Confidential information concerning you will (as far as practicable) be made available to you only to those within our firm who are providing legal services for you.
 - 7.3 We cannot disclose to you any confidential information which we hold in relation to any other client.
 8. **Conflicts of Interest**
 - 8.1 We maintain procedures to identify and respond to any conflicts of interest. If a conflict of interest arises, we will advise you of this and the procedures set out in the *Law Society's Rules of Conduct and Client Care for Lawyers* will apply.
 - 8.2 If you are borrowing money from a bank or lending institution, it is likely we will be instructed by that lender to act on the lender's behalf in preparing and registering security documents. In such circumstances we will be acting for more than one party in the transaction and owe a duty of care to the lender. This may prevent us from disclosing information to you that we obtain from the lender and may prevent us from providing you any advice that conflicts with the interests of the lender. Unless you advise otherwise, your instructions will be taken as your informed consent to us also acting for the lender.
 9. **Fees**
 - 9.1 We will charge a fee that is fair and reasonable for the services provided. In calculating those fees, the following factors will be taken into account:
 - (a) The skill, specialised knowledge and responsibility required, including the complexity and/or novelty of your matter.
 - (b) The importance of the matter to the client and the results achieved
 - (c) The urgency of the matter and the circumstances in which the matter is undertaken and any time factors, including those imposed by you.
 - (d) The value or amount of any property and/or money involved.
 - (e) The experience, reputation and/or ability of the members of our firm who work on your matter
 - (f) The number and/or importance of documents perused
 - (g) The time and labour expended pursuant to any hourly rate as set forth in our Letter of Engagement
 - (h) The reasonable costs of running a practice
 - (i) Any fee arrangement, quote or estimate given by us in writing in relation to the specific instructions
 - (j) The fee customarily charged in the market for work similar in scope to your work.
 - 9.2 We may provide you an estimate before the commencement of work. Should such estimate be provided, we will report regularly to you on the progress of your matter against any such estimate.
 - 9.3 There may be some cases where the scope of service and/or work cannot be precisely defined, but we provide a estimate of cost. Any work that falls outside the scope of work included in the estimate will be billed on an hourly basis. Should we need to provide services outside of the estimated scope, we will provide you with the estimate of likely further costs.
 - 9.4 Where our fees are calculated on an hourly basis, time shall be recorded in 6-minute units, with any actual time expended being rounded up to the nearest unit of 6 minutes.
 - 9.5 Unless otherwise stated, all fees are exclusive of GST.
 10. **Disbursements and Office Expenses**
 - 10.1 In providing services, we may incur disbursements and/or make payments to third parties on your behalf. These disbursements may include expenses such as court filing fees, barrister's fees, LINZ fees, travel expenses, fees for experts and any agent's fee in respect of AML verification.
 - 10.2 We will further charge an office fee in respect of costs such as conducting client due diligence ("CDD"), phone charges, stationery, photo copying and printing.
 - 10.3 We reserve the right to require an advance payment for any disbursements or expenses we will be incurring on your behalf.
 11. **Payment**

- 11.1 We will send interim invoices to you. The frequency of invoicing will be agreed with you in writing prior to the commencement of your work. In the absence of any written agreement, we will invoice you monthly.
 - 11.2 Our invoices are payable upon receipt unless alternative arrangements have been agreed in writing. If an account remains unpaid for more than 10 working days, we reserve the right to cease doing any work for you and retain custody of your file (subject to our legal obligations) until all accounts are paid in full. We may also require interest to be paid on any amount which is overdue. Interest will be calculated at a rate of 2% per calendar month on any amount outstanding.
 - 11.3 If any account remains unpaid and requires debt collection action, all costs incurred in that action will be payable by you. Should your outstanding account be referred to a collection agency, please be aware that should you continue to instruct us, you consent to the disclosure of your personal information (Limited to your full name, date of birth, residential address, place of work and any means of contact we hold on file).
 - 11.4 We may request the collection agency to "default load" the debt uploading and entering the debt information into a national credit bureau. This will ensure other creditors are aware of the debt and may prevent you from receiving any further credit.
12. **Credit Checks**
 - 12.1 We may carry out any reasonable credit checks on you. You authorise anyone we contact to provide us the information we request as a part of our credit enquiries. You further authorise us to provide information to credit agencies about any account you have failed to pay within the terms of clause 11 of these terms.
13. **Payment of Retainer**
 - 13.1 We may request that you pay any amount to us in advance or pay any amount as security for our fees and expenses. You further authorise us:
 - (a) To debit any amounts pre-paid by you.
 - (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.
14. **Termination**
 - 14.1 You may terminate our retainer at any time.
 - 14.2 We may terminate our retainer in the following circumstances:
 - (a) You provide us any instruction that requires us to breach any professional obligation
 - (b) You fail to pay our fees on any agreed basis, or within the terms set out in clause 11 of these terms of engagement.
 - (c) You provide information to us that is misleading or deceptive
 - (d) You fail to provide us instructions in a sufficient and/or timely manner
 - (e) Except in litigation matters, you adopt a course of action that goes against our advice and which we believe is highly imprudent and allowing such a course may be inconsistent with our professional obligations.
 - (f) You engage in conduct toward us and/or any of our staff members that amounts to any one or more of:
 - (i) bullying
 - (ii) discrimination
 - (iii) harassment
 - (iv) racial harassment
 - (v) sexual harassment
 - (vi) threatening behaviour
 - (vii) violence
 - 14.3 If your retainer is terminated, you agree to pay us all fees due up to the date of termination and/or all expenses incurred up to that date.
15. **Retention of Files and Documents**

- 15.1 You authorise us to destroy or delete all files and documents for any matter (other than any documents specifically agreed to be held in safe custody for you) 7 years after our engagement ends, or earlier if we have converted those and documents to an electronic format. You acknowledge that we may charge a reasonable fee if you require us to retrieve your file from an archived storage.
- 16. Trust Account**
- 16.1 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 ordinarily lodge those funds on interest bearing deposit ("IBD"), unless you instruct otherwise. Should we lodge those funds on IBD, we will charge an administration fee of 5% of any interest derived.
- 17. Client Care and Service**
- 17.1 The Law Society's client care and service information requires that whatever legal services your lawyer is providing, they must:
- (a) Act competently, in a timely manner and in accordance with instructions received and arrangements made
 - (b) Protect and promote the interests of the client and act for that client free from compromising influence and/or loyalties
 - (c) Discuss with the client their objectives and how they should best be achieved
 - (d) Provide the client with information about the work to be done, who it will be done by and the way the services will be provided
 - (e) Charge the client a fee that is fair and reasonable and advise the client when and how they will be billed
 - (f) Provide clear information and advice
 - (g) Protect the client's private information and ensure confidentiality
 - (h) Treat the client fairly, respectfully and without discrimination
 - (i) Keep the client informed about the work being done and advise once that work is completed
 - (k) Let the client know how to make a complaint and deal with any complaint promptly and fairly.
- 17.2 The obligations that lawyers owe to clients are fully set out in the Rules of Conduct and Client Care for Lawyers. Those obligations are subject to certain over-riding duties, for example to the courts and/or the justice system. We are also required to observe the provisions of Anti-Money Laundering and Countering Financing of Terrorism legislation.
- 17.3 Should you require further information on these obligations, please visit <http://www.lawsociety.org.nz> or call 0800 261 801.
- 18. Electronic Communications**
- 18.1 We may communicate with you and others at times by electronic means. These communications may be subject to interference or interception or may contain viruses or other defects beyond our control. We do not accept any responsibility and will not be liable for any damage or loss caused in connection with, or as the consequence of the corruption and/or non-receipt of an electronic communication.
- 19. Copyright**
- 19.1 Unless otherwise agreed in writing, any document that we prepare for you may be used by you for any purpose, on the basis that you are licensed to use our work. Ownership of the copyright shall always remain with us unless otherwise agreed in writing.
- 20. Professional Indemnity Insurance**
- 20.1 We hold professional indemnity insurance that meets or exceeds the minimum standards specified by the Law Society. We will provide you with the particulars of the minimum standards of the Law Society upon request.
- 21. Taxation and Accounting Advice**

- 21.1 None of the advice that we provide to you may be construed as taxation or accounting advice. We are not qualified to provide such advice and recommend you consult a taxation and/or accounting expert. We will not be liable in any way for any information we provide you that may otherwise be construed as taxation or accounting advice.
22. **Lawyer's Fidelity Fund**
- 22.1 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 NZ\$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 any client.
23. **Complaints**
- 23.1 We maintain a procedure for handling any client complaints which is designed to ensure that a complaint is dealt with promptly and fairly.
- 23.2 If you have a complaint about our services, you may refer your complaint to the person in the firm who has overall responsibility for your work.
- 23.3 If you do not wish to refer your client to that particular person, or you are dissatisfied with that person's response, you may refer your complaint to:
- Jared Moss, Director**
jared@sterlinglegal.co.nz
(027) 303 0539
- 23.4 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.
24. **Limitations on extent of our Obligations or Liability**
- 24.1 Any limitations on the extent of our obligations to you or any limitation or exclusion of liability are set out in our Letter of Engagement.
25. **General**
- 25.1 These Terms apply to any current engagement and to any future engagement, whether or not we provide you another copy of these terms.
- 25.2 We reserve the right to change these Terms from time to time, in which case we will send you a copy of the amended Terms.
- 25.3 Our relationship with you is governed by New Zealand law and New Zealand courts have exclusive jurisdiction.