



Intellectual Property

TERMS OF ENGAGEMENT

These Standard Terms of Engagement (“Terms”) apply in respect of all work carried out by us for you, except to the extent that we otherwise agree with you in writing.

1 Services

1.1 The services we are to provide for you are outlined in our engagement letter, along with any further instructions that you provide to us in writing (or that we record in writing).

2 Financial

2.1 Fees:

- a The fees we will charge or the manner in which they will be arrived at, are set out in our engagement letter.
- b If the engagement letter specifies a fixed 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 as set out in the engagement letter. 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.
- c Where our fees are calculated on an hourly basis, time spent is recorded in 6 minute units, with time rounded up to the next unit of 6 minutes. Hourly fees may be adjusted (upwards or downwards) to ensure the fee is fair and reasonable to take into account matters such as the complexity, urgency, value and importance of the services. Full details of the relevant fee factors are set out in [Rule 9 of the Lawyers and Conveyancers Act \(Lawyers: Conduct and Client Care\) Rules 2008 \(Rules\)](#).

2.2 **Disbursements and expenses:** 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.

2.3 **GST:** Our services will usually attract Goods and Services Tax (GST). If this is the case, GST is payable by you on our fees and charges.

2.4 **Invoices:** We will send interim invoices to you, usually monthly and on completion of a matter, or termination of our engagement. We may send you invoices more frequently when we incur a significant expense.

2.5 **Payment:** Invoices are payable within 7 days of the date of the invoice, unless alternative arrangements have been made with us. We may require interest to be paid on any amount which is more than 7 days overdue.

Interest will be calculated at the rate of 4% above our firm's main trading bank's 90-day bank bill buy rate as at the close of business on the date payment became due.

2.6 **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.

2.7 **Insurance:** We hold professional indemnity insurance that meets or exceeds the minimum standards specified by the New Zealand Law Society. We will provide you with particulars of the minimum standards upon request. This insurance does not extend to services provided in, or in relation to, the United States of America or Canada.

3 Communications

3.1 We will obtain from you contact details, including email address, postal address and telephone numbers. We may provide documents and other communications to you by email (or other electronic means). You will advise us if any of your contact details change.

3.2 We will report to you periodically on the progress of any engagement and will inform you of any material and unexpected delays, significant changes or complications in the work being undertaken. You may request a progress report at any time.

3.3 You agree that we may provide you from time to time with other information that may be relevant to you, such as newsletters and information bulletins. At any time you may request that this not be sent to you.

4 Confidentiality

4.1 **Confidence:** 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:

- a to the extent necessary or desirable to enable us to carry out your instructions; or
- b as expressly or impliedly agreed by you; or
- c as necessary to protect our interests in respect of any complaint or dispute; or
- d to the extent required or permitted by law.

- 4.2 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.
- 4.3 **Personal information and Privacy:** In our dealings with you we will collect and hold personal information about you. We will use that information to carry out the Services and to make contact with you about issues we believe may be of interest to you. Provision of personal information is voluntary but if you do not provide full information this may impact on our ability to provide the Services.
- 4.4 Subject to clause 4.1, you authorise us to disclose, in the normal course of performing the Services, such personal information to third parties for the purpose of providing the Services and any other purposes set out in these Terms.
- 4.5 We may disclose your name and address to third parties such as credit agencies to perform a credit reference or to undertake credit management or collection processes if it is reasonable to do so.
- 4.6 The information we collect and hold about you will be kept at our offices and/or at secure file storage sites (including electronic file storage sites) elsewhere. If you are an individual, you have the right to access and correct this information. If you require access, please contact Rachel Triplow on rachel@arcip.co.nz
- 5 Documents, Records and Information**
- 5.1 We will keep a record of all important documents which we receive or create on your behalf on the following basis:
- a We may keep a record electronically and destroy originals (except where the existence of an original is legally important such as in the case of wills and deeds).
 - b At any time, we may dispose of documents which are duplicates, or which are trivial (such as emails which do not contain substantive information), or documents which belong to us.
 - c We are not obliged to retain documents or copies where you have requested that we provide them to you or to another person and we have done so, although we are entitled to retain copies for our own records if we wish to do so.
- 5.2 We will provide to you on request copies or originals (at our option) of all documents to which you are entitled under the Privacy Act 1993 or any other law. We may charge you our reasonable costs for doing this.
- 5.3 Where we hold documents that belong to a third party you will need to provide us with that party's written authority to uplift or obtain a copy of that document.
- 5.4 Unless you instruct us in writing otherwise, you authorise us and consent to us (without further reference to you) to destroy (or delete in the case of electronic records) all files and documents in respect of the Services seven years after our engagement ends (other than any documents that we hold in safe custody for you or are otherwise obliged by law to retain for longer). We may retain documents for longer at our option.
- 5.5 We may, at our option, return documents (either in hard or electronic form) to you rather than retain them. If we choose to do this, we will do so at our expense.
- 5.6 We own copyright in all documents or work we create in the course of performing the Services but grant you a non-exclusive licence to use and copy the documents as you see fit for your own personal or commercial use. However, you may not permit any third party to copy, adapt or use the documents without our written permission.
- 6 Compliance**
- 6.1 We are obliged to comply with all laws applicable to us in all jurisdictions, which may include (but not limited to):
- a Anti-money laundering (AML) and countering financing of terrorism (CFT) laws; and
 - b Laws relating to tax and client reporting and withholdings.
- 6.2 We may be required to undertake customer due diligence on you, persons acting on your behalf and other relevant persons such as beneficial owners and controlling persons. We may therefore ask you to show us documents verifying your identity (such as a passport or driver's licence). We may retain copies of these documents. We may perform such other customer verification checks as to your identity and checks as to the source of any funds associated with any transaction to which the Services relate as we consider to be required by law. We may not be able to begin acting, or to continue acting, for you until that is completed.
- 6.3 To ensure our compliance and yours, we may be required to provide information about you, persons acting on your behalf or other relevant persons to third parties (such as government agencies). There may be circumstances where we are not able to tell you or such persons if we do provide information.

6.4 Please ensure that you and/or any of the persons described previously are aware of and consent to this. It is important to ensure that all information provided to us is accurate. If the information required is not provided, or considered by us to be potentially inaccurate, misleading, or in contravention of any law, we may terminate or refuse to enter into an engagement.

7 Conflicts of Interest

7.1 We are obliged to protect and promote your interests to the exclusion of the interests of third parties and ourselves as set out in the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 (Rules). This may result in a situation arising where we have a conflict of interest.

7.2 We have procedures in place to identify and respond to conflicts of interest or potential 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 Rules. This may mean we cannot act for you further in a particular matter and we may terminate our engagement.

8 Duty of Care

8.1 Our duty of care is to you and not to any other person. We owe no liability to any other person, including for example any directors, shareholders, associated companies, employees or family members unless we expressly agree in writing. We do not accept any responsibility or liability whatsoever to any third parties who may be affected by our performance of the services or who may rely on any advice we give, except as expressly agreed by us in writing.

8.2 Our advice is not to be referred to in connection with any prospectus, financial statement, or public document without our written consent.

8.3 Our advice is opinion only, based on the facts known to us and on our professional judgement, and is subject to any changes in the law after the date on which the advice is given. We are not liable for errors in, or omissions from, any information provided by third parties.

8.4 Our advice relates only to each particular matter in respect of which you engage us. Once that matter is at an end, we will not owe you any duty or liability in respect of any related or other matters unless you specifically engage us in respect of those related or other matters.

8.5 Unless otherwise agreed, we may communicate with you and with others by electronic means. We cannot guarantee that these communications will not be lost or affected for some reason beyond our reasonable control, and we will not be liable for any damage or loss caused thereby.

9 Limitations on Obligations or Liability

9.1 To the extent allowed by law, our aggregate liability to you (whether in contract, tort, equity or otherwise) in connection with our Services is limited to the amount available to be payable under the Professional Indemnity Insurance held by the firm.

9.2 Neither party will be liable for any indirect, special or consequential loss.

9.3 Force majeure xxx means a circumstance or event beyond the reasonable control of that party but excludes that party's lack of financial means.

10 Termination

10.1 You may terminate our retainer at any time.

10.2 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

10.3 If our retainer is terminated you must pay us all fees due and all expenses incurred.

11 Feedback and Complaints

11.1 Client satisfaction is one of our primary objectives and feedback from clients is helpful to us. If you would like to comment on any aspect of the service provided by us, including how we can improve our service, please contact Rachel Triplow on rachel@arcip.co.nz

11.2 If you are not satisfied with the way we have dealt with your complaint the New Zealand Law Society has a complaints service (email: complaints@lawsociety.org.nz).

12 General

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

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

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