0800 THE FIRM
hello@thefirmlawyers.co.nz
www.thefirm.co.nz

Terms of Engagement and Information for Clients

1. General

1.1 These terms of engagement (**Terms**) apply to any current engagement, and any future engagement, you have with The Firm (Tauranga) Limited trading as The Firm ("**The Firm**").

1.2 We are entitled to change these Terms from time to time.

1.3 These Terms are effective from the beginning of your engagement and are presumed to be accepted by you unless you give us written notice to the contrary.

1.4 Our relationship with you is governed by New Zealand law and is subject to the non-exclusive jurisdiction of the New Zealand Courts.

2. Services

2.1 The legal services we are going to provide you are outlined in our letter of engagement and include any further instructions we receive from you ("**Services**").

2.2 In order to provide you with efficient and cost-effective legal services, it may be that part, or all, of your instructions are delegated to other professionals in The Firm.

3. Communications

3.1 We will request your 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). Please let us know if your contact details change.

3.2 We will report to you periodically on the progress of any engagement you have with us. We 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 with information that may be relevant to you from time to time. Examples are newsletters, notice of events and/or articles. You may opt out of this at any time.

4. Fees and other financial information

4.1 The basis upon which we charge fees is set out in our letter of engagement and below.

4.2 Fixed fees: If our letter of engagement specifies a fixed fee, we will charge this for the agreed scope of our Services unless, after providing the fixed fee offer, unforeseen circumstances arise which result, or may result, in our time, expertise and involvement in undertaking the Services far exceeding what was anticipated when we offered the fixed fee. Our fee for any work which falls outside of the scope of our Services in our letter of engagement will be based on our hourly rates and will also take into account the reasonable fee factors as set out by the New Zealand Law Society. 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 additional fees.

4.3 Fees based on time expended and other factors:

a) Where fees are calculated on an hourly basis, the hourly rates of the people we expect to undertake the work are set out in our letter of engagement. These rates are subject to change from time to time. Any differences in the hourly rates reflect the different levels of experience and specialisation of our professional staff. Time spent is recorded in six-minute units, with time rounded up to the nearest six minutes.

b) Hourly fees may be adjusted (up or down) to ensure the fee is fair and reasonable and to reflect matters such as the complexity, urgency, value, and importance of our 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 ("**the Rules**").

4.4 Estimates: You may request an estimate of our fee to undertake our Services at any time. If possible, we will provide you with an estimate (which may be a range between a minimum and a maximum amount or an estimate for a particular task or step). An estimate is not a quote. Any significant assumptions included in the estimate will be stated and you must tell us if those assumptions are incorrect or if they change. We will inform you if we are likely to exceed the estimate by any substantial amount. Unless specified, an estimate excludes GST, disbursements, and administration fees.

4.5 Disbursements and expenses: In providing our Services, we may incur specific expenses and/or disbursements on your behalf. These will be included in our invoice to you. Disbursements are out-of-pocket expenses and include, but are not limited to, travel and accommodation costs, filing costs, court fees, on-line searches and registrations, compliance costs under the law and matters of a similar nature. Disbursements also include payments made on your behalf to experts and other professionals.

4.6 Administration and technology charge: We charge a fixed administration and technology charge of $50 plus GST per matter. This contributes towards the cost of delivering our services, including secure digital storage, our document management system, electronic signing platforms, secure communications and administrative support which is not charged separately. This is a firm charge and is not a third-party disbursement.

4.7 Goods and Services Tax (**GST**): is payable by you on our fees and charges. Any amounts quoted or estimated are exclusive of GST.

4.8 Invoicing: We will send interim invoices to you, usually monthly, or upon completion of the matter, or termination of our engagement, or upon incurring a significant expense or undertaking a significant amount of work over a short period.

4.9 Prepayment of fees: We may ask you to prepay amounts to us, or to provide security for our fees and expenses. We may do this, on reasonable notice, at any time.

5. Payment

5.1 Invoices are payable within seven (7) days of the date of the invoice unless alternative arrangements have been made with us.

5.2 If you have any concerns about your invoice or cannot pay it within the above timeframe, please contact us promptly so that we can work with you to make payment arrangements.

5.3 If we hold funds on your behalf, you authorise us to deduct our fee from those funds (unless they have been provided for a particular purpose) and send you an invoice before the deduction, or immediately afterwards, as required by the Lawyers and Conveyancers Act (Trust Account) Regulations 2008.

5.4 We reserve the right to charge you interest at 12% per annum on any amount overdue under an invoice. We reserve the right to commence proceedings against you to recover any overdue amount, plus interest at the rate noted above plus our collection costs. We will seek to recover from you in full any collection costs we incur in seeking to recover any overdue amount from you, including costs on a solicitor/client basis, our own fees, and the fees of any collection agency.

5.5 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, you remain responsible for payment to us in accordance with these Terms if the third party fails to pay us.

6. Trust accounting

6.1 The Firm operates a trust account. All money received from you or on your behalf will be held to your credit in our trust account. Payments out of the trust account will be made either to you or to others with your authority. Written authorisation from you (and if we are acting for more than one of you, from all of you) will be required when payment is to be made to a third party. Before making a payment to another account we may require verification of the account details by provision of (for example) a copy of a deposit slip, cheque or bank statement showing the account number, a signed authority from you including the bank account details, or a signed letter from the relevant financial institution providing bank account details.

6.2 A full record of our trust account is kept at all times. A statement of trust account transactions detailing funds received and payments made on your behalf will be provided to you periodically and at any time upon your request.

6.3 Unless it is unreasonable or impracticable to do so, when we hold significant funds for you for more than a short period of time, we will place them on call deposit with The Firm's banker, ANZ Bank New Zealand Limited, which is registered under section 69 of the Reserve Bank of New Zealand Act 1989, subject to your having completed to the bank's satisfaction any request for information relating to the deposit or certification required by the bank. Interest earned from call deposits less withholding tax will be credited to you.

7. Confidentiality and personal information

7.1 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 any of this information to any other person except:

a) to the extent necessary or desirable to enable us to carry out the Services;
b) to contact you about issues we believe may be of interest to you; or
c) as expressly or impliedly agreed by you (including any authorisation given in these terms); or
d) as necessary to protect our interests in respect of any complaint or dispute; or
e) to the extent required or permitted by law.

7.2 We will keep your information safe by storing it in our secure premises (whether physically or electronically) and by ensuring confidential information concerning you will, as far as practicable, be made available only to those within The Firm who are providing legal services for you.

7.3 You authorise us to disclose, in the normal course of performing our Services, such personal information to third parties for the purpose of providing our Services and for any other purposes set out in these Terms. Third parties we may share personal information with include, but are not limited to:

a) Land Information New Zealand for conveyancing purposes;
b) OneLaw who provides our client relationship management software;
c) Third party document sharing platforms (see clause 9.3);
d) The third party we use to assist with our anti-money laundering customer due diligence obligations (see clause 10); and
e) Service and technology providers who support the delivery of our services and carry out certain functions on our behalf. This includes providers of technology solutions, such as generative artificial intelligence tools used to assist with legal research, document analysis, drafting, and related professional services.

   These providers may process personal information on our behalf for the purpose of supplying their services to us. They may also use such information to operate, support, troubleshoot, enhance, and develop their own systems and services, to manage their internal business operations, to meet regulatory or legal requirements, and for research and development activities.

   Except where expressly stated otherwise, our service providers are not permitted to use your personal information to train or improve general AI models or foundation models, to enhance unrelated third-party products or services, to undertake behavioural profiling, advertising, or similar commercial activities, or to promote products or services directly to you.

   In performing services for us, our providers may engage their own subcontractors or affiliates, including entities located outside New Zealand. This may involve transferring or making personal information available for purposes such as data hosting, cloud-based storage, communications infrastructure, analytics, or system security. Certain technical data, such as IP addresses or device identifiers, may be shared with platform operators where necessary for cybersecurity and system integrity purposes.

   Our service providers may also disclose personal information to related entities, successors in the event of a merger, acquisition, or sale of assets, or to regulatory or governmental authorities where required by law.

7.4 You consent to us disclosing 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.

7.5 Provision of personal information is voluntary but if you do not provide full information this may impact our ability to provide our Services.

7.6 You have the right to ask for a copy of any personal information we hold about you, and to ask for it to be corrected if you think it is wrong. If you would like to ask for a copy of your information, or have it corrected, please contact us by phone, by email at hello@thefirmlawyers.co.nz, or write to us at PO Box 8271, Tauranga 3145.

8. Verification of identity

8.1 The Anti-Money Laundering and Countering Financing of Terrorism Act 2009 requires us to collect and retain information required to verify your identity. 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 our Services relate as we consider required by law. Please refer to the 'Compliance' section regarding information that may be required to be provided to third parties.

9. Documents, records, and information

9.1 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 an electronic record 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.

9.2 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 2020 or any other law. We may charge you our reasonable costs for doing this.

9.3 You expressly authorise and consent to us sharing documents with you through secure third party document sharing platforms if we believe these provide an efficient and secure way of sharing and storing documents with you.

9.4 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.

9.5 You authorise us (without further reference to you) to destroy all files and documents related to our Services for you (other than any documents that we hold in safe custody for you or which we are otherwise obliged by law to retain for longer) seven (7) years after our engagement ends, or earlier if we have converted those files to an electronic format provided we hold the electronic records in accordance with this provision.

9.6 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.

9.7 We own copyright in all documents or work we create in the course of performing our 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.

10. Compliance

10.1 We are obliged to comply with all laws applicable to us in all jurisdictions, including (but not limited to):

a) Law under the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 ("**AML/CFT**"); and
b) Laws relating to tax and client reporting and withholdings.

10.2 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.

10.3 To comply with AML/CFT, 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 not be able to begin acting, or to continue acting, for you until that is completed. To assist us in complying with AML/CFT, we outsource some of our obligations to Trust, Integrity & Compliance Limited ("**Tic company"**). You expressly authorise and consent to us disclosing certain personal information to Tic company for the purpose of discharging our AML/CFT obligations and you authorise Tic company to contact you directly should they need to do this. For more information about Tic company see: www.ticcompany.com.

10.4 Please ensure that you and/or any of the persons described previously are aware of and consent to these provisions. 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 our engagement or refuse to act for you.

11. Conflicts of interest

11.1 We are obliged to protect and promote your interests to the exclusion of the interests of third parties (including ourselves).

11.2 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.

12. Duty of care

12.1 Our duty of care is to you and not to any other person. We owe no liability to any other person unless we expressly agree in writing.

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

12.3 Our advice is opinion only, based on the facts known to us and on our professional judgment, 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.

12.4 Our advice relates only to each 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.

12.5 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.

13. Termination

13.1 You may terminate our retainer at any time.

13.2 We may terminate our retainer in any of the circumstances set out in the Rules including the existence of a conflict of interest, non-payment of fees, and failure to provide instructions.

13.3 If our retainer is terminated you will be liable for all fees, disbursements and expenses incurred up to the date of termination.

14. Insurance

14.1 We hold Professional Indemnity Insurance that exceeds the minimum standards specified by the New Zealand Law Society. We can provide you with particulars of the minimum standards upon request.

15. Limitations on liability

15.1 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 Firm's Professional Indemnity Insurance.

16. Lawyers' Fidelity Fund

16.1 The Law Society maintains the Lawyers' Fidelity Fund for the purposes 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.

17. Guarantee

17.1 Where you are a company, we may request that the Director/s of the company enter into a personal guarantee with The Firm which guarantees the obligations of the company to us.

18. Legal aid information

18.1 In certain circumstances, we may be able to help with legally aided matters. Should you qualify for a grant of legal aid, there is a $50.00 User Charge Fee. It is our responsibility to collect your User Charge.

18.2 Depending on your income and the value of your assets and property, you may be required to repay some or all of the legal aid that is granted to you. The Ministry of Justice will contact you and advise you whether or not you have to make any repayments.

18.3 If you are required to repay some or all of your legal aid to the Ministry of Justice, you will be required to pay interest to the Ministry of Justice on all outstanding finalised legal aid debt at 8% per annum (subject to change and an initial interest-free period). This includes legal aid debt secured against property.

18.4 The legal fees are set by the Ministry of Justice and are either Fixed Fees or Fixed Fee Plus. The Ministry will grant aid according to a general Fixed Fee Schedule and should provide you with a copy of the relevant schedule on confirmation that your application for legal aid has been granted. Fixed Fee Plus refers to an hourly arrangement and is typically granted in complex cases.

18.5 If your file is placed on the Fixed Fee Plus Scheme, the Ministry will grant aid according to guideline hours that are prepared covering the various stages of the proceedings. We will advise you of the legally aided hourly charge out rates if your application is accepted. There will also be additional expenses for such items as photocopying, telephone calls, travel and any Court filing fees.

18.6 If your weekly income (disposable income) or capital (disposable capital) increases by amounts that could affect your eligibility for legal aid, you are required by law to notify the Ministry of Justice of this.

18.7 You will receive copies of invoices that we send to the Ministry of Justice and the accompanying correspondence.

18.8 If you instruct us on the basis of receiving legal aid and your grant of aid is later withdrawn by the Ministry of Justice, you can instruct us to continue to act for you on a private paying basis. If you do not wish to do this, you agree that your instructions are at an end.

18.9 In the event that legal aid is not granted, you will need to pay the fees incurred in your matter in accordance with our letter of engagement and these Terms.

19. Feedback

19.1 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 The Firm, including how we can improve our service, please contact us on hello@thefirmlawyers.co.nz.

20. Complaints

20.1 If you have any concerns or complaints about our Services, please raise them as soon as possible with the person to whom they relate. They will respond to your concerns as soon as possible. If you are not satisfied with the way that person has dealt with your complaint, please raise the matter with the Director who has overall responsibility for your matter. We will inquire into your complaint and endeavour to resolve the matter with you in a way that is fair to all involved.

20.2 If you are not satisfied with the way we have dealt with your complaint, the New Zealand Law Society has a complaints service to which you may refer the issue. You can call the 0800 number for guidance, lodge a concern or make a formal complaint. Matters may be directed to Lawyers Complaints Service, PO Box 5041, Wellington 6140, New Zealand, Phone: 0800 261 801, Email: complaints@lawsociety.org.nz

To lodge a concern:
www.lawsociety.org.nz/for-the-community/lawyers-complaints-service/concerns-form

To make a formal complaint:
www.lawsociety.org.nz/for-the-community/lawyers-complaints-service/how-to-make-a-complaint

Client Care and Service Information

The Law Society's client care and service information is set out below. Whatever legal services your lawyer is providing, he or she must:

- 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. Those obligations are subject to other overriding duties, including duties to the courts and to the justice system. If you have any questions, please visit www.lawsociety.org.nz or call 0800 261 801.