

## Standard terms

Thank you for choosing Anthony Harper.

These are our standard terms and information on fees and disbursements. Please read them. If you have any questions, please ask us.

### Who will be working with you?

We select the lawyers who are best suited to your needs. We are happy to discuss this with you.

A partner will be nominated as responsible for your matter. He or she will ensure that you are kept informed of progress. Other lawyers, including legal executives, may become involved as the matter progresses, both to ensure efficient and timely delivery of services, and to provide additional specialist assistance if required.

We will try to avoid changing the lawyers who conduct work on your behalf, but sometimes this cannot be avoided. We will inform you promptly of any necessary change.

### Scope of our role

We aim to provide you with a high quality legal service. This depends on your providing us with full instructions at all times during the matter. Written instructions are best. Please do not assume we know certain facts; we rely on you to tell us all relevant facts to avoid us giving advice based on incorrect assumptions.

We will set out our understanding of our role in the matter in an engagement letter or, if there is no formal engagement letter for the matter, in correspondence between us. In these standard terms, we refer to this letter or correspondence as the engagement letter. Please do not assume we will be undertaking tasks unless they are set out in the engagement letter.

We provide legal advice. We do not advise on commercial, financial or other non-legal matters.

### Reliance

Our duty of care is to our client named in the engagement letter. We do not owe any duty of care or liability to any other person. Further, you must not disclose or distribute our advice to any person (other than your other advisers or as may be required by law), and no such person may rely on our advice, without our prior written consent.

Where you are a company or other corporate or unincorporated entity, we act only for you. We do not act for your shareholders, directors or members unless we agree otherwise.

### Fees and disbursements

#### Professional fees

Unless otherwise set out in the engagement letter, we use hourly rates only as a general basis for deciding the appropriate fees for our work. We may also take into account other factors such as the value we bring through our involvement, the complexity, novelty, difficulty and urgency of the work and the benefit to you of previous work, product or precedents.

Hourly rates vary according to the type of work and experience of the lawyers or legal executives involved and will generally be set out in the engagement letter. If hourly rates for any lawyer or legal executive are not included, you can assume they will be at our standard rates for the work concerned applying at the time the work is done. Our rates include secretarial and word processing services.

If we agree a fixed fee and the scope of the work increases beyond the basis on which you originally instructed us, it will be carried out at the normal hourly rates of the lawyers or legal executives involved unless another arrangement is agreed.

#### Disbursements

Disbursements generally fall into two categories; those due to services supplied by others and support services supplied by us or our associated entities.

We will generally charge you the amount charged to us by others for services, such as couriers, counsel's fees, travel expenses, witness and expert's fees and search, filing and registration fees.

We will charge you, on each bill, an administration fee, based on the amount of our professional fees in that bill, to cover services supplied by us or our associated entities, including facsimile, photocopying, long distance telephone calls, file storage and enquiries. We may charge you further amounts where any of these services are substantial.

If you would like any further information on our administration fee or other charges, please ask us.

#### Rate changes

Rates for our fees and disbursements are reviewed and may change during the course of your matter. If they do, the revised rate will generally apply to your matter from the date of the change.

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## Estimates

Where practical, we will provide an estimate of the likely fees and disbursements if the actual fees and disbursements are not known. The actual fees and disbursements may differ from the estimate if the scope or nature of the matter or our role changes or unforeseen circumstances arise. You should therefore view the estimate as our best guess, based on any assumptions given, of the cost of our legal services in the matter.

## GST

All of our rates and fees which we quote to you are exclusive of GST, and GST (where applicable) will be charged at the rate that applies when the work is undertaken.

## Billing arrangements

### Form and frequency of bills

We issue monthly bills. Each bill will set out the total professional fees charged during the relevant period as well as the disbursement categories and total disbursement costs. Accounts are payable not later than 21 days after their date.

### Funds in advance

We may ask you, from time to time, for funds in advance to be held in trust. You authorise us to deduct from these funds any fees and/or disbursements for which we have provided an invoice. You should be aware that the total amount payable by you in relation to the matter may be greater than these funds.

### Reimbursement

Although you may expect to be reimbursed by a third party for fees and costs, we do not have any recourse against that third party so we must look to you for payment, even if payment to you is delayed or not received.

### Interest on unpaid accounts

We may charge you interest on any unpaid account on a daily basis at the Westpac Bank Visa Card debit interest rate from its due date until payment. Interest will be payable on demand. Further, you will be responsible for all costs incurred by us in recovering any such unpaid account.

### Deduction from trust account funds

Any fees and/or disbursements for which we have provided an invoice, and which remain unpaid, may be deducted from any funds held in our trust account on your behalf (unless you have given us different instructions).

## Litigation

If the matter is, or becomes, litigious, the following applies:

- if you succeed in obtaining an order for costs payable by other parties in the litigation, it is likely to be for an amount substantially less than the fees and disbursements payable under these standard terms or any separate agreement with a barrister;
- the Court may make an order that you pay another party's legal fees and costs (for instance, if you lose the case). These fees and costs would be in addition to the fees and disbursements payable to us; and
- the Court may make a costs order in favour of, or against, any party to the action without stating the amount payable. If this happens, that person is entitled to apply to a Court for assessment of the whole or part of those costs.

## Privacy

We may collect personal information from your instructions and while acting for you. This will include personal information about people who are employees, directors or principals of yours. We ask you to help us to make sure that these people are aware that our acting for you may involve collection of personal information about them.

If we do not collect this personal information, we may not be able to carry out your instructions.

Personal information will be used by us to provide legal services, to obtain credit or other references, to undertake credit management and to tell you about issues and developments that may be of interest to you. You authorise us to obtain from any person or release to any person any information necessary for these purposes, and you authorise any person to release information to us that we require for these purposes.

Under the Privacy Act 1993 you have the right of access to, and correction of, your personal information held by us.

## Confidentiality and ownership of information

We shall keep your affairs confidential and will not disclose to any third party the fact that we are advising you, the matters on which we are advising you or the content of our advice, except as permitted under the Rules of Conduct and Client Care for Lawyers of the New Zealand Law Society. You may disclose our identity to any third party but you must not, without our written consent, use our name in any document intended to have legal effect or represent that we have agreed to its issue.

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You may use and copy all documentation created by us for you in connection with the work we undertake for you. However, all copyright and other intellectual property rights in the documentation and all original ideas created by us and relating to or connected with the work remain our property. We will be free to use any of the documentation to form the basis of any other work which we do and to use the intellectual property and original ideas to give advice to other clients, provided that we do not breach our duty of confidentiality to you.

## Electronic mail

Email and electronic transmission of confidential or privileged documents or advice is a convenient method of delivery. However, internet mail is not secure and any communications or documents transmitted may be interfered with, contain computer viruses or other defects and may not be successfully replicated on other systems. We will not be liable for any copying, recording, reading or interference by others during or after a transmission, for any delay or non-delivery or for any damage caused in connection with a transmission.

If you have any doubts about the authenticity of any communications or documents purportedly sent by us, please contact us immediately.

## Files

We are generally entitled to keep all your papers and documents while money is owing to us. We will keep our file (except for any of your papers which you ask to be returned to you) for at least seven years after sending you our final bill on the file. This is on the understanding that we have your authority to destroy the file at any time after the expiry of this period (including any papers which are your property). We will not destroy documents you ask us to deposit in safe custody.

We may make a charge for retrieving stored papers or deeds in response to any request from you to uplift your papers or file.

## Consumer Guarantees Act 1993

Where you are acquiring our services for the purposes of a business (as provided in sections 2 and 43 of the Consumer Guarantees Act 1993), that Act will not apply.

## Limitation of liability

To the extent permitted by law:

- our aggregate liability, together with and including that of our partners, consultants and employees, in respect of all causes of action and claims, whether in contract, tort or otherwise, arising in

connection with, or in relation to, our engagement is limited to NZ\$2 million;

- we shall not be liable, whether in contract, tort or otherwise, for any loss (whether direct or indirect) of profits, business, anticipated savings or other economic loss or for any indirect, special or consequential loss, even if we were or should have been aware of the likelihood of such loss; and
- you may not bring any action against us, regardless of form, more than one year after the cause of action has arisen.

## Termination

Where you give us any instruction and we rely on that instruction (eg, by giving an undertaking to a third party), you may not revoke that instruction. Otherwise, you may terminate our engagement at any time by giving notice to us in writing. We may also terminate our engagement, for just cause, on giving you reasonable notice. In particular, we may terminate if any of our accounts are not paid within 21 days after their date, funds in advance are not paid when asked for or we consider that payment of our fees and disbursements may be at risk.

Despite any termination, you agree to pay our fees and disbursements, together with GST, incurred up to termination and for any work we are required to do in relation to the matter after termination. Further, the provisions of these terms relating to reliance, confidentiality and ownership of information, files, limitation of liability and governing law shall continue to apply after termination.

## Force majeure

We shall not be liable to you for any delay or non-performance of our obligations arising from any cause beyond our reasonable control. In the event of our being so delayed or prevented from performing our obligations, we shall give you notice in writing as soon as reasonably possible. Further, we shall resume performance of our obligations as soon as reasonably possible after the removal of the cause of the delay or prevention.

## Entire agreement

These standard terms, together with our engagement letter, constitute the entire agreement between us, and supersede any previous terms of engagement or letter. We can change these standard terms, in which case we will send amended terms to you.

## Governing law

Our engagement shall be governed by the laws of New Zealand, and both of us agree to submit to the exclusive jurisdiction of the New Zealand courts.

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## Acceptance

Your continued instructions will confirm your acceptance of our terms of engagement.

## Client care and service information

We are committed to complying with the Rules of Conduct and Client Care for Lawyers of the New Zealand Law Society ("**Law Society**"). To assist you, the following information describes some key elements of those rules, and explains some recourse you have as a consumer of legal services.

## Client care and service

Whatever legal services we are providing, we 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; and
- 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 to the justice system.

If you have any questions please either discuss them with us or contact the Law Society at [www.lawsociety.org.nz](http://www.lawsociety.org.nz), or on 0800 261 801.

## People responsible for your work

We will advise you of the partner who will have overall responsibility for your work on each matter.

## Complaints

We have complaints procedures that are designed to ensure that any complaint is dealt with promptly and fairly.

If you have a complaint about our services or charges, please talk to the partner responsible for your work.

If you do not wish to talk to that person about your complaint, or you are not satisfied with that person's response to your complaint, please contact our managing partner, who can be reached by:

- e-mail at [managing.partner@ah.co.nz](mailto:managing.partner@ah.co.nz); or
- telephone +64 3 379 0920 or +64 9 363 3301.

The Law Society also maintains a complaints service and you can make a complaint to that service by calling 0800 261 801.

## Professional indemnity insurance

We hold professional indemnity insurance that meets or exceeds the minimum standards specified by the Law Society. We can provide you with particulars of the minimum standards upon request.

## Lawyers' Fidelity Fund

The Law Society maintains the Lawyers' Fidelity Fund to provide protection against client losses arising from theft by lawyers. The maximum amount 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.

## Limitations on extent of our obligations or liability

Our standard terms contain limitations on the extent of our obligations to you and limitations on and exclusions of our liability.

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