

# Terms of Engagement

These Terms of Engagement are intended to ensure you understand the basis upon which we, Parry Field Lawyers Limited, ("We" or "Parry Field") will act on your instructions. We will:

- (i) Act competently in a timely way and in accordance with instructions received and arrangements made;
- (ii) Protect and promote your interests and act for you free from compromising influences or loyalties;
- (iii) Discuss with you your objectives and how they should best be achieved;
- (iv) Provide you with information about the work to be done, who will do it, and the way the services will be provided;
- (v) Charge you a fee that is fair and reasonable and let you know how and when you will be billed;
- (vi) Give you clear information and advice;
- (vii) Protect your privacy and ensure appropriate confidentiality;
- (viii) Treat you fairly, respectfully and without discrimination;
- (ix) Keep you informed about the work being done and advise you when it is completed.

Our obligations as lawyers to our clients are described in the Rules of Conduct in Client Care for Lawyers ("ROCCL"). Those obligations are subject to other overriding duties, including duties we owe to the Court and to the justice system.

If you have any questions, please visit [www.lawyers.org.nz](http://www.lawyers.org.nz) or call 0800 261 801.

## 1. Agreement

1.1 These Terms apply to any current instruction you give us, as well as any future instruction, whether or not we send you another copy of them. These Terms and the engagement letter form the entire agreement between you and us. There is no need for you to sign these Terms in order to accept them. You accept them by continuing to instruct us to work for you.

1.2 We reserve the right to amend these Terms from time to time. Any such amendment will take effect from the date on which we notify you of the amendment or post the amended Terms of Engagement on our website.

## 2. Your responsibilities

2.1 Your assistance on the following points will enable us to deliver our service in a timely manner:

- (i) Give us clear instructions, if possible in writing;
- (ii) Provide information or documentation promptly (including all information required by us in order to comply with any legislation or other law governing the provision of our services);
- (iii) Provide information which is true, accurate and not misleading;
- (iv) Tell us if you have any important time limits;
- (v) Tell us if you change your address, telephone or email address;
- (vi) Ask if you are not sure about anything;
- (vii) Pay our invoices when due.

2.2 Unless you let us know otherwise:

- (i) if you are a couple, we can accept instructions from either of you;
- (ii) if you are a trust, we can accept instructions from any of your trustees or officers;
- (iii) if you are a partnership, we can accept instructions from any of your partners or officers;
- (iv) if you are a company, we can accept instructions from any of your directors or employees or any other person you have authorised to instruct us; and
- (v) if you are a body corporate or incorporated society, we can accept instructions from any person holding themselves out as being authorised by the officers to instruct us.

## 3. Scope of Work and our Role

3.1 Subject to clause 3.4 below, we will represent and advise you on all legal matters that properly fall within the scope of your instructions.

3.2 Our duties are owed to you. Unless otherwise agreed in writing or required by law, those duties will not extend to others. If any other parties wish to retain us, they should do so by separate agreement.

3.3 Similarly, our advice is given for your benefit and in your interests. If any other parties wish to rely on the advice we give you, they can only do so if both you and we agree in writing.

3.4 We are not qualified to give:

- (i) investment advice. You should get that advice from a qualified financial advisor;
- (ii) tax advice. You should get that advice from your accountant or tax advisor;
- (iii) insurance advice. You should get that advice from your insurance broker;
- (iv) advice about foreign laws. We can help you to contact a lawyer in the other country.

3.5 Unless we agree to do so in writing, we will not:

- (i) remind you about due dates (e.g. PPSR, lease or consent renewal or expiry dates); or
- (ii) update advice after it is given.

3.6 When your instructions on a matter are completed, our obligation to represent you will end. We will only advise you further on issues arising from the matter if you specifically engage us to do so.

## 4. Confidentiality and Disclosure of Information

4.1 In acting for you, we will collect and hold personal information about you.

4.2 We will not disclose any confidential personal information unless disclosure is required by an authorised event. An authorised event includes any of the following:

- (i) Authorisation by you; or
- (ii) Any requirement we have for identity verification or credit collection processes as set out in clauses 4.3 - 4.7 following; or
- (iii) As required by the ROCCL; or
- (iv) As required by the Inland Revenue Department of the New Zealand Government or any other Authority of competent jurisdiction; or

(v) As required by our bank to enable it to comply with its legal obligations in respect of our trust account;

(vi) As required under any other legislation or law including, without limitation, the requirements of the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 ("AML/CFT Act"); or

(vii) Any other event or purpose specified in these Terms.

4.3 We are required by law to verify your identity and in some circumstances, the source of your wealth and/or the source of funds for a transaction.

4.4 We may also wish to carry out reasonable credit checks on you from time to time via third parties, including Centrix.

4.5 You authorise us to collect information about you (including customer due diligence information and credit reports), to obtain, exchange, hold and use such information, and to make any other enquiries we think appropriate to:

- (i) confirm information provided to us about you is true;
- (ii) undertake initial and on-going customer due diligence and monitoring in accordance with the AML/CFT Act;
- (iii) enforce debt and legal obligations (including recovery of money owed to us); and
- (iv) comply with other legal obligations we may have.

4.6 You authorise any person (including credit reporters, including Centrix) to disclose information (including credit information) to us in response to such enquiries.

4.7 You accept that we may use customer due diligence services (including electronic based services from a third party, including RealAML) to verify your identity and conduct other customer due diligence or monitoring required under the AML/CFT Act, and that we may use credit reporting services to credit check you, and that when we use such services:

- (i) the other third party or credit reporter (each a "Service Provider") will exchange information about you for that purpose and the Service Provider may hold information on its system and use it to provide their customer due diligence service or credit reporting service (as the case may be) to their other customers;
- (ii) we may use the Service Provider's services in the future for any authorised purpose (including in relation to on-going customer due diligence or the provision of credit). This may include using the Service Provider's monitoring services to receive updates if information held about you changes; and
- (iii) if you default in your payment obligations to us, information about that default may be given to credit reporters and given by credit reporters to their other customers.

4.8 You authorise us to disclose information (including personal information), where we consider it necessary for the effective operation of our practice, to any contracted suppliers of services when disclosure is a reasonably necessary element of such services.

4.9 If you are an individual, you have the right under the Privacy Act 2020 to see and correct any personal information we, or any agency, hold about you. You must notify us of any change in circumstances that may affect the accuracy of the information you provided to us. Some of your personal information may be held by third parties we have contracted with to supply storage or other services. Please refer to our Privacy Policy on our website ([www.parryfield.com](http://www.parryfield.com)) for further information including information about third parties that we may use to store your personal information.

4.10 By accepting these terms of engagement you are also agreeing to receive correspondence from us, either in electronic form (e.g. emails, texts) or otherwise. This correspondence may relate to general legal news or information about our firm, or otherwise. If you do not wish to receive any such correspondence you may opt out at any time by communicating in writing to us or by using any relevant unsubscribe facility provided.

## 5. Persons responsible for the work

5.1 Generally, we ask you to nominate the partner responsible for each matter. He or she will then involve others to assist as appropriate. If at any stage you have concerns about the staffing of a matter, please contact either the partner responsible or any other partner. We are always happy to discuss this.

5.2 Legal services are performed by members of our professional staff with the level of experience and specialisation which best enable us to provide a quality service at a fair price.

## 6. Calculation of Fees

6.1 The basis on which fees will be charged and when payment of fees is to be made is set out in our letter of engagement and these Terms. The charge out rates specified in our letter of engagement are the current charge out rates. However our charge out rates are subject to amendment from time to time, and the charge out rates we use will be those in effect at the time of the invoice.

6.2 Our fees are calculated in accordance with the principles established by the New Zealand Law Society ("NLZS"). These include:

- (i) The time and labour expended;
- (ii) The skill, specialist knowledge, and responsibility required to perform the services properly;
- (iii) The importance of the matter to you and the results achieved;
- (iv) The urgency and circumstances in which the matter is undertaken and any time limitations imposed, including those imposed by you;
- (v) The degree of risk assumed by us in undertaking the services, including the amount or value of any property involved;
- (vi) The complexity of the matter and the difficulty or novelty of the questions involved;
- (vii) Any quote or estimate of fees given;
- (viii) The reasonable costs of running a practice; and
- (ix) The fee customarily charged in the market and locality for similar services.

6.3 When we commence work, we do not know how significant each of the factors set out above will be. It is therefore difficult to give a fixed quote.

6.4 If we do give an estimate, this is our "best guess" as to what the fee is likely to be, based on the information and issues we are aware of at the time of the estimate. If however the work does not proceed as expected, or if the scope of your instructions changes or unexpected complications arise, then we charge for all additional work done. Specific examples include:

- (i) Where you decide to purchase a property in the name of a company or a trust;
- (ii) Where relationship property issues need to be addressed;

- (iii) Where a will or other additional legal document is prepared;
  - (iv) Where there are difficulties in satisfying the special conditions of your contract; or
  - (v) Where there is a delay in satisfaction of your special conditions or settlement of your transaction.
- 6.5 We will inform you as soon as practicable if it becomes apparent that our fee estimate is likely to be exceeded.
- 6.6 Sometimes instructions are not completed. If this occurs, we will charge you for the work undertaken and costs incurred up to the time of termination. Sometimes we may be required to incur additional time or expense following the completion of a matter. We will charge you for this in the normal way.
- 7. Disbursements and Sundry Fees**
- 7.1 We will invoice you for disbursements incurred by us to third parties on your behalf (for example LIM or other report fees, title registration fees, document service fees, on-line verification services, electronic document services and court filing fees). We will also invoice you for the cost of our office services provided by us in acting for you (for example, matter opening and storage fees, photocopying, printing, scanning, binding and information retrieval).
- 7.2 We may ask for payment of major items before those costs are incurred.
- 8. Litigation**
- 8.1 If the matter is litigious, then the following will also apply:
- (i) It may be desirable to also engage the services of a barrister or other expert witness. If we do so, we may either collect their fee from you or ask you to enter into a separate agreement directly with that barrister or expert witness.
  - (ii) If you are successful in obtaining an order for costs payable by other parties in the litigation, it will most likely be for an amount less than the costs payable under this Agreement, and or any separate agreement with a barrister. If so, that will not affect your obligation to pay us the fee. You will also remain obligated to pay our fee in the ordinary manner specified in these terms, whether or not you have received any ordered payment from other parties in the litigation towards our costs.
  - (iii) It is also possible that the Court may make an order that you pay (part of) another party's costs. If so, those costs will be in addition to those payable to us under this Agreement.
- 9. Companies and Trusts and Joint Clients**
- 9.1 If we receive instructions from you in your capacity as a director or shareholder of a limited liability company, or as a settlor or trustee of a trust or estate, then such instructions are accepted on the basis that you and the company, trust or estate (as the case may be) are at all times jointly and severally liable for payment of our fees and disbursements.
- 9.2 In cases where instructions are received from you for more than one client, such clients will be jointly and severally liable for payment of our fees and disbursements. In such cases, unless otherwise agreed in writing, we may, but are not required to, accept and act on instructions from any one person from such a joint client.
- 10. Billing and Accounts**
- 10.1 Invoices will usually be issued on a monthly basis for current legal work. We also issue an account on completion of each matter.
- 10.2 Our invoices will include any New Zealand GST applicable to our supply of services to you. Where we allow you to pay our invoices by credit card payment, we may add a 2% surcharge to our invoice amount.
- 10.3 Payment in full is due within 14 days of the date of our invoice or, in the case of property matters, on settlement of your transaction, whichever date is earlier. You must not withhold payment or make any deductions of any nature whether by way of set off (legal, equitable or otherwise), counterclaim or otherwise from any amount you owe us. Where we do not receive payment by that date, we may charge you interest at the rate of 1.5% per month.
- 10.4 Where we have an arrangement with you that we will address an invoice to another person, you will need to pay that invoice if that other person does not pay us.
- 10.5 Deductions: You authorise us to deduct from any funds held on your behalf all sums you owe us including any fees, expenses or disbursements for which we have provided an invoice and for which services have been rendered, plus any interest and our costs under clause 11.3.
- 10.6 If monies are owing by you to us, we may:
- (i) Deduct the amount due from funds held on your behalf (for example from the sale of your house); and/or
  - (ii) Cease to do any further work, on reasonable notice to you, and retain custody of your papers or files until all monies are paid in full.
- 11. Statements**
- 11.1 At the beginning of each month, we may send you a statement summarising the amounts that have been received into and paid out of our trust account on your behalf. This statement will show any amount which is payable by you to reimburse us for our fees and any disbursements we have paid on your behalf.
- 11.2 The firm's policy is to initiate proceedings to recover overdue amounts unless alternative arrangements are approved in writing by us.
- 11.3 We are entitled to recover from you all costs relating to obtaining payment from you or attempting to do so, and/or enforcing these Terms or attempting to do so, including but not limited to debt collection costs and fees, and legal costs and expenses on a solicitor and client basis. Where we incur such costs, they will become immediately payable by you on demand and will accrue interest at the rate of 1.5% per month until payment.
- 12. Trust Account**
- 12.1 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 can lodge those funds on interest bearing deposit with a bank. In that case we will charge an administration fee of 5% of the interest derived and you will have to complete certain documentation before we can carry out any such lodgement.
- 12.2 Where we do lodge funds on deposit with a bank you and/or we may be required by law to disclose information to our bank and/or the Inland Revenue or other lawful authority regarding the deposit and/or other information regarding you. Any such requirement imposed upon us overrides any obligations of confidentiality we have to you and you consent to us disclosing the information as required and otherwise reasonably assisting us to meet such disclosure requirements.
- 13. Termination**
- 13.1 Where you give us any instruction and we rely on that instruction (for example, by giving an undertaking to a third party), you may not revoke that instruction. Otherwise, you may end our engagement at any time on any matter or matters. We will charge you for the work undertaken and costs incurred up to the time of termination.
- 13.2 If we have good cause, we may decide to stop working for you, such as if you do not provide us with instructions or essential information promptly; are unable to, or do not, pay our fees as agreed; give us instructions that require us to breach any professional obligation, or mislead or deceive us in a material respect; if we are required to stop working for you under the AML/CFT Act; or, if, other than in respect of litigation instructions, against our advice, you act in a way we believe is highly imprudent and may be inconsistent with our fundamental obligations as lawyers. If our engagement is terminated, these terms continue to apply in respect of your instructions to the extent that is appropriate.
- 13.3 If our engagement is terminated, we may retain custody of your papers or files until all accounts are paid in full. We will provide copies to you on request provided that you pay our reasonable photocopying charges if required.
- 13.4 If we provide your original file to you, we may retain copies of your file(s) and associated documents for our records.
- 13.5 We retain files in paper or electronic form for a minimum of six years from the time a matter is terminated or completed. At any time thereafter we may destroy that file without contacting you. We may destroy paper files or documents we receive from or for you if we have an electronic copy of them.
- 13.6 We retain all intellectual property rights in any documents created for you and, subject to clause 4.2 (Confidential Personal Information), will be entitled to use such documentation in any services provided by the firm to any other person.
- 13.7 All documents that we create in draft form leading up to but not including the final document submitted to you (whether in draft or otherwise) remain our property and may be destroyed or otherwise dealt with as we see fit.
- 13.8 Where we hold any of your documents in paper form, we may elect to destroy those documents (after retaining electronic copies), or deliver those documents to you for you to hold. Our obligation to deliver to you is satisfied upon either handing the document directly to you, to an authorised agent or by posting/couriering the same to the last postal address you have provided us. For the purpose of this clause 'documents' means any documents evidencing a legal obligation, so does not include any other document that forms part of your file with us such as correspondence, notes, statements etc. which are governed by clauses 13.3- 13.5.
- 14. Lawyers Fidelity Fund**
- 14.1 NZLS maintains the Lawyers Fidelity Fund for the purposes of providing clients 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.
- 15. Complaints**
- 15.1 We maintain a procedure for handling any complaints by clients designed to ensure that a complaint is dealt with promptly and fairly. If you have a complaint you may refer it to the partner who has overall responsibility for your work.
- 15.2 If you do not wish to refer your complaint to that person, or you are not satisfied with that person's response to your complaint, you may refer your complaint to our chairman of partners, who will ensure that it is fully investigated. They may be contacted as follows:
- (i) By letter at PO Box 8020, Christchurch;
  - (ii) By email at [legalease@parryfield.com](mailto:legalease@parryfield.com);
  - (iii) By telephone at 03 348 8480.
- 15.3 NZLS also maintains a complaints service and you are able to make a complaint to that service directly at 0800 261 801.
- 16. Limitations on Extent of Our Obligations or Liability**
- 16.1 We hold professional indemnity insurance which meets the standards specified by NZLS. To the maximum extent permitted by law, the total aggregate liability of Parry Field Lawyers Limited and its agents and employees (together) to you for all claims in relation to our services is limited to the actual extent of that insurance cover available, or to five times the related fees paid by you for the services that were provided to you, whichever is the lesser. This clause is intended to be for the benefit of and enforceable by us, our agents and employees. The limitation of liability in this paragraph shall apply however and whenever liability arises or might otherwise arise, whether in contract, equity or tort (including negligence), for breach of statutory duty or otherwise.
- 16.2 Any further limitation on the extent of our obligations to you, or any limitation or exclusion of liability, is set out in our letter of engagement.
- 16.3 If you are acquiring our services for business purposes, the guarantees under the Consumer Guarantees Act 1993 do not apply.
- 17. Conflicts of interest**
- 17.1 We may act for clients who may be associated with you in some way. Naturally we will continue to represent those clients or new clients where we consider that no conflict arises between your interests and the interests of those other clients arising out of the work we are engaged to perform for you.
- 17.2 We will however meet our legal and ethical requirements relating to conflicts of interest as laid down by the ROCCL and the common law. We may need to terminate the engagement and refer you to another law firm where we believe that we do, or may have, a conflict of interest.
- 18. Law and Jurisdiction**
- 18.1 Our services and this agreement are governed by New Zealand law and subject to the exclusive jurisdiction of the New Zealand courts.
- 18.2 If a court determines that any term in these Terms of Engagement is illegal, void or unenforceable, we will remain entitled to enforce the remaining terms.