

Terms of Business

1. The purpose of this document

- 1.1 We value our relationship with our clients. The purpose of this document is to help you understand what you can expect from us when carrying out your instructions for legal services and work (**Work**). If you have any questions, please contact the person with overall responsibility for your Work.
- 1.2 This document:
- (a) sets out our terms of engagement on which we do Work for you. It explains what you can expect from us and what you agree to when we undertake Work for you;
 - (b) includes information we are required to give you under the New Zealand Law Society's Rules of Conduct and Client Care for Lawyers; and
 - (c) applies to your current Work and to any future Work that we do for you, unless we agree in writing to change these terms.
- 1.3 We may change these terms at any time and if we do so whilst carrying-out Work for you, then we will send you the updated version of this document.

2. Instructions and letter of engagement

- 2.1 We will only act for the person named in our letter of engagement (**Client**). We will not take any instructions from anyone else, unless you authorise for us to do so and no-one else is permitted to rely on our advice provided for the benefit of the Client, without our written consent. We will, however, accept instructions on the following basis:
- (a) if you are a company, from any of your directors or employees or any other person you have authorised to instruct us;
 - (b) if you are a trust, from any of the trustees or officers of that trust;
 - (c) if you are a partnership, from any of your partners or officers of that partnership;
 - (d) if you are a couple, then where the circumstance permits, from either of you.
- 2.2 Every time we start a new piece of Work for you, we will give you a letter of engagement. This letter will outline:
- (a) what we will do for you including (where possible) a scope of your Work;
 - (b) the person who will have overall responsibility for your Work; and
 - (c) where possible our fee estimate, otherwise the current hourly rates of the person or people responsible for your Work.

3. Our duties to you

- 3.1 Whenever we carry-out Work for you we owe duties to you as our Client as well as legislative obligations such as the Privacy Act 1993 and the General Data Protection Regulations. Subject to any overriding duties and obligations we may have (e.g. to the Courts), we will:
- (a) protect your privacy and confidentiality;
 - (b) act competently, promptly, and according to your instructions;
 - (c) protect and promote your interests;
 - (d) give you clear information and advice;
 - (e) keep you informed about progress;
 - (f) treat you fairly and respectfully;

- (g) hold professional indemnity insurance that is consistent with the New Zealand Law Society standards; and
- (h) charge you a fee that is fair and reasonable.

3.2 Our obligations are further described in the Rules of Conduct and Client Care for Lawyers available at: <http://www.legislation.govt.nz/regulation/public/2008/0214/latest/DLM1437811.html> and also see www.lawsociety.org.nz, for further information.

4. How you can help us

4.1 You can help us by:

- (a) giving us clear instructions and full information;
- (b) asking if there is anything you are not sure of;
- (c) telling us if you have any important time limits;
- (d) providing us with identity documentation, if we do not have this already;
- (e) dealing promptly with any questions we have;
- (f) telling us if your contact details change or there is a change in circumstance that will affect the Work; or
- (g) if you are a company or other incorporated entity, we may need personal guarantees from your directors or shareholders and if this applies please provide us with the requested information without undue delay.

4.2 Please ask if you are concerned about anything or if you do not hear from us when expected.

5. Verifying your identity and conducting credit checks

5.1 We are required to comply with anti-money laundering and countering financing of terrorism laws as well as laws relating to tax, withholdings and client reporting. Where we conduct Work for you, a company or trust business, we are required to obtain and verify information about the company or trust and this will include the people associated with it (such as directors and shareholders, trustees and beneficiaries) or other people such as beneficial owners or controlling persons (**Associated Persons**). In some instances, our legal obligations further require us to ask for further information and we may need to ask you about the nature and purpose of the proposed Work, as well as source of wealth and/or funds for a transaction, or as otherwise related to the Work.

5.2 It is important for you to understand that our legal obligations may require us to provide information about you or Associated Persons to relevant government agencies and there may be circumstances where we are unable to inform you that we have provided such information. Please ensure that you and all Associated Persons are aware that you are consenting to this provision.

5.3 We are unable to start any Work for you until we have satisfied our legal requirements. In the event that we are unable to obtain the required information from you or Associated Persons, or you provide information that is inaccurate or in our sole discretion we consider your information to be misleading or in contravention of any law, we are unlikely to be able to carry-out the Work for you. Even if you are a long-standing client of Govett Quilliam, our legislative obligations require us to ascertain such information from you for our records.

5.4 In order to satisfy our legal obligations and customer due diligence on you or Associated Persons, we will need to obtain and verify your identity as well as other personal details, including:

- (a) your full name;
- (b) your date of birth; and
- (c) your address.

5.5 To confirm these details, documents such as your passport, or driver's licence and your birth certificate, and documents that show your address - such as a current bank statement - will be required.

- 5.6 We may also need to carry out reasonable credit checks on you, therefore you agree and authorise anyone we contact to provide us with information we request as part of our credit enquiries and allow us provide information to credit agencies about any account you have failed to pay by the due date.

6. Our legal costs

Fees

- 6.1 Unless we agree with you otherwise, we will calculate our fee based on the time we spend on the Work. The calculation will be based on our hourly rates, adjusted where appropriate for other factors permitted by the Rules of Conduct and Client Care for Lawyers, that include the complexity, urgency, importance, specialised knowledge, responsibility and risks involved, and the results achieved.
- 6.2 Unless we state otherwise, our fee, estimates and hourly rates do not include GST or expenses and disbursements, which are payable by you.
- 6.3 We will also charge you an amount to cover general office and compliance expenses (such as photocopying, standard postage, printing, file storage, FATCA and anti-money laundry obligations). This expense is shown separately as an Admin & Compliance Fee in our account to you. Further, we may have to cover expenses, disbursements or payments (**Costs**) on your behalf (such as searches, registration, travel, court charges, couriers and agency). We may at times ask you to pay funds into our trust account before we incur these expenses. These Costs will be shown separately in our account to you.

Changes

- 6.4 Our hourly fee rates, office expenses and disbursements may change from time to time.

7. Paying our account

- 7.1 We issue accounts as seems appropriate during the progress of your Work. This could include:
- (a) monthly;
 - (b) on completion of the Work or the ending of our engagement; and
 - (c) when we incur a significant expense.
- 7.2 You agree to pay our account on receipt, unless we have agreed alternative arrangements.
- 7.3 For property transactions and other transactions with specific settlement dates, our account:
- (a) for a purchase, refinance or other settlement is payable on settlement;
 - (b) for a sale will be deducted from the sale proceeds.

However, if appropriate, we may invoice you monthly, in which case our account is payable on receipt.

- 7.4 If you have any questions about an account, please contact us straight away.
- 7.5 Sometimes we may need you to pay the legal costs in advance. If we do, we will hold your payment in our trust account and only deduct our legal costs when we issue you an account.
- 7.6 If we hold funds in our trust account on your behalf, we may deduct from these funds any legal costs for which we have issued you an account. "Funds" means money from any source, including any judgment, sale proceeds, or settlement amount.
- 7.7 We will charge interest on overdue accounts at the rate of 1.5% a month above the interest rate that our bank charges for overdraft facilities. We will take action to recover overdue accounts and we will charge you the cost of that recovery as well as the overdue amount and interest.
- 7.8 Any failure or delay on our part to charge interest on an unpaid account or to exercise any of our other rights, will not operate as a waiver to our rights.
- 7.9 At your request or with your approval, we may send our account invoice to a third party to pay on your behalf. However, you are still responsible for payment by the due date if the third party does not pay us.

8. How we maintain your privacy and confidentiality

We consider client confidentiality and your privacy to be extremely important. We will treat all information we hold about you as private and confidential and will not use it or share it unless:

- (a) you agree, or ask us to;
- (b) we need to so in order to carry-out the Work;
- (c) required by the law; or
- (d) required by the Rules of Conduct and Client Care for Lawyers.

The information we collect and hold about you will be kept at our offices and/or at a secure file storage site in New Zealand or Australia. If you require access to your information, please contact our Chief Executive Officer.

9. How we avoid conflicts of interest

'Conflict of interest' means that we have duties to someone else that might lessen our ability to act wholly in your best interests. We do our best to find out if a conflict of interest exists, however if we find a conflict at any time, we will immediately let you know and tell you how we plan to deal with the conflict. It is important for you to understand that where a conflict of interest exists, we may not be able to continue to undertake the Work for you, the other client, or both.

10. Scope of our engagement

- 10.1 We will provide the services set out in our letter of engagement or as subsequently agreed and set out in any replacement or supplementary letter of engagement.
- 10.2 Unless we confirm in writing otherwise, we are not qualified to give:
 - (a) investment or financial advice: you will need to seek that advice from a qualified financial advisor;
 - (b) tax advice or accounting advice: you will need to seek that advice from your accountant or tax advisor; or
 - (c) advice about foreign laws: we can help you to contact a lawyer in the other country.
- 10.3 Unless we agree to do so in writing, we will not remind you about dates (e.g. the Personal Property Securities Register, lease or consent expiry dates) or update our advice after it is given.

11. Our intellectual property

- 11.1 Unless we agree otherwise:
 - (a) we retain ownership of the copyright in all documents (including deeds) and other intellectual property created by us;
 - (b) you must not provide our advice to others (such as using our opinions in any public document or statement).
- 11.2 You indemnify us against any third party claims arising from a release of our advice to third parties.

12. Our email correspondence with you

- 12.1 You authorise us to use any email address that you give us to communicate with you about the Work we do for you.
- 12.2 We have virus protection software and security protocols in place. However, we cannot guarantee that electronic communications will always be free from viruses or other defects, are secure, or will be received. If you have any concerns about the authenticity of an email purportedly sent by us, please contact us immediately.
- 12.3 We may occasionally email you information we feel is relevant and useful to you. If you do not want to receive that information, please let us know.

13. Our money handling procedures

- 13.1 We maintain a trust account for all funds we hold on behalf of clients (except funds we receive for payment of accounts).
- 13.2 If we hold funds for you of more than \$10,000.00 and will hold them for more than one week, we will place them in an interest-bearing deposit with a bank registered under section 69 of the Reserve Bank of New Zealand Act 1989. We will not put a lesser amount of funds in an interest-bearing deposit with our bank unless you ask us to. We are not responsible for obtaining the best interest rate available. We are not responsible for any loss of interest you suffer as a result of delay in placing your funds in an interest-bearing deposit account.
- 13.3 We charge an interest commission at a rate of 5% of the interest generated on funds held on interest-bearing deposit.
- 13.4 Withholding tax will be deducted on the interest earned and paid to the IRD. If we have your IRD number, you can elect to have withholding tax deducted at your applicable rate. If we do not have your IRD number, we are required to deduct tax at the default rate (which may be higher than your actual rate).
- 13.5 We will automatically send out an annual Withholding Tax Certificate where the gross interest earned is greater than \$50.00. We will not send a certificate for lesser amounts of interest unless you ask us to do so.
- 13.6 Where you transfer funds to our trust account in a foreign currency, we will convert those funds into New Zealand dollars at the prevailing exchange rate offered by our bank. We are not responsible for seeking or obtaining a better exchange rate.

14. Professional Indemnity Insurance and the Lawyers' Fidelity Fund

- 14.1 We hold professional indemnity insurance that exceeds the New Zealand Law Society's minimum standards. If you would like further information about our insurance, please ask.
- 14.2 The New Zealand Law Society operates a Lawyers' Fidelity Fund to compensate clients who suffer theft of money or property entrusted to lawyers. The Fund covers losses of up to \$100,000.00 per individual claimant. It does not cover loss where you have instructed us to invest money on your behalf (subject to limited exceptions set out in the Lawyers and Conveyancers Act).

15. The limits of our liability to you

- 15.1 Except where otherwise provided by law, the maximum amount that we have to pay you if we are found liable for any loss or damage is the greater of:
- (a) \$1 million; or
 - (b) \$0.75 million for each partner in our firm.
- This limit meets the New Zealand Law Society minimum standard. The limit applies whatever you are claiming for, and however the liability arises.
- 15.2 If you are more than one person (such as a couple or partnership), this maximum is the maximum combined amount that we have to pay you together.
- 15.3 If you engage us to do Work for the purposes of a business, you agree the Consumer Guarantees Act does not apply. Otherwise, nothing in this paragraph 15 limits any rights you may have under that Act.
- 15.4 We are not liable for any loss or liability because:
- (a) we relied on information provided by you or a third party (including public records and expert witnesses);
 - (b) you did not provide us with all information required for your instructions or the scope of our engagement;
 - (c) you did not receive or read a communication we sent you.

- 15.5 In the event we become involved in any claim (including actual or threatened litigation of whatever form) in relation to our services, we will immediately notify you. You agree, to the extent permitted by law, to indemnify us, our partners and employees in all respects including our reasonable costs and expenses involved in defending any actual or threatened litigation. Where legal counsel is retained for these purposes, those costs, will be met by you. We will use reasonable endeavours to agree the amount of any such costs recognising the need to respond to litigation promptly and reasonably. You agree to meet our costs for all reasonable time incurred by our partners and employees and any other reasonable costs and expenses in relation to any inquiry or proceedings initiated by any person.

16. How we handle complaints

- 16.1 We will respond to any complaints promptly and fairly.
- 16.2 Please contact us straight away if you have a question about an account or if you are unhappy with any other aspect of our services. You may contact:
- (a) the partner responsible for your Work; or
 - (b) our Chief Executive Officer by phone, post or email to: Sophie.Braggins@gqlaw.nz.
- 16.3 The New Zealand Law Society also has a complaints service. Please telephone 0800 261 801 or visit www.lawsociety.org.nz for information and advice about making a complaint.

17. Ending our engagement

- 17.1 You may end our engagement at any time by giving us reasonable notice.
- 17.2 If we have good cause, we may decide to stop working for you, such as if you:
- (a) do not provide us with instructions promptly;
 - (b) are unable to, or do not, pay our fee as agreed; or
 - (c) against our advice, act in a way we believe is inconsistent with our fundamental obligations as lawyers, or highly imprudent. This does not apply to litigation.
- 17.3 If we decide to stop working for you, we will give you reasonable notice and help you find another lawyer.
- 17.4 Before you take your documents, you must pay our fee (including office expenses and disbursements) for the Work we have done for you. We may keep a copy of any documents you take.
- 17.5 These terms will continue to be enforceable after:
- (a) the end of our engagement; and
 - (b) any changes to our partnership or the incorporation of our firm.

18. Destroying files

You authorise us to destroy all files and documents concerning your Work (other than estates) seven years after the Work has been completed. We will destroy paper files or documents earlier if we have an electronic copy of them. We will not destroy any documents we have agreed to hold in safe custody for you (such as Wills).

19. Health and Safety

The Health and Safety at Work Act 2015 obliges us to take all practicable steps to ensure the health and safety of our employees engaged on any assignment. We both agree to be mutually responsible to ensure the safety of our employees and to see that no harm is caused to them in your workplace. You will ensure that the Act is fully complied with when our personnel visit your sites. Contact with your health and safety representative could involve a safety briefing at the beginning of the assignment, regarding work hazards which our staff may be exposed to on your site, management of the hazards, provision of any appropriate safety equipment and awareness of the accident reporting procedures and emergency procedures.

20. New Zealand law applies

Our relationship is governed by New Zealand law and the New Zealand Courts have exclusive jurisdiction.

21. Entire agreement

The terms set out in this document together with our letter of engagement, subject to any qualification, conditions, assumptions and reservations set out in our letter of engagement, forms the entire agreement between us and you. No previous discussions, proposals, correspondence, understandings or other communications, whether written or oral, will have contractual effect subsequent to our letter of engagement. Only written variations signed on behalf of us will have effect to vary this agreement.