



*"Geared to the Result"*

**G&F LEGAL LTD**  
**BARRISTERS & SOLICITORS**

## Standard 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.

### **Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT Act) Requirements**

We are required to comply with all laws binding on us including (but not limited to):

- the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 (AML/CFT Act); and
- the United States Foreign Account Tax Compliance Act (FATCA); and
- the Common Reporting Standard (CRS).

To meet these requirements, we may be required to conduct customer due diligence on you, persons acting on your behalf, and other relevant persons such as your beneficial owners or persons who have effective control of you as a client. As this takes time, there is a cost involved which is charged to your file at our normal charge out rates. We may not be able to act or continue acting for you until this is completed to the required standard.

We will advise you what information and documents are required for these purposes. This information could include formal identification, address confirmation, source of funds, transaction details, ownership structures, tax identification details, and any other information considered relevant. Please ensure the information and documents requested are provided promptly to avoid any delays in us acting for you.

We will retain the information and documents and may be required to disclose them to government agencies as required by law. We may not be permitted to advise you of the instances when we are required to disclose this information. We may also be required to provide this information to banks with which we place your funds through our trust account.

### Consent to Identification Verification

You, in accepting our terms of engagement, authorise and consent to your personal information and documentation provided being passed to the document issuer, official record holder, credit bureau or other authorised third parties for the purpose of verifying your identity and address.

### **Services**

The services which we are to provide for you are outlined in our letter of engagement.

### **Financial**

#### Fees

The fees which we will charge or the manner in which they will be arrived at, are set out in our letter of engagement.

If the letter of engagement 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. We will endeavour to advise you as soon as reasonably practicable if it becomes necessary for us to provide services outside the scope and if requested, give you an estimate of the likely amount of the further costs if we are able, however if you require this additional work then that should be obvious to you.

Where our fees are calculated on an hourly basis, the hourly rates are set out in our letter of engagement. The differences in those rates reflect the experience and expertise and specialisation of our professional staff. Time spent is recorded in 6 minute units, with time rounded up to the next unit of 6 minutes.

#### Disbursements and Expenses

In providing services we may incur disbursements or have to make payments to third parties on your behalf. These include tolls, faxes, photocopying, printing, search and registration fees and court filing fees. These will be included in our invoice to you when the expense is incurred and are in addition to our estimated fees unless otherwise specifically recorded. We may require an advance payment for fees, disbursements or expenses which we will be incurring on your behalf. We also charge a \$45 office administration fee on each new file opened.

### GST (if any)

Is payable by you on our fees and charges.

### Invoices

We will generally invoice you monthly or on completion of the matter if it is likely to be completed within a short period of time, or on termination of our engagement. We may also send you an invoice when we incur a significant expense. More specific detail about invoicing of a specific matter will be contained in our letter of engagement.

### Payment

Invoices are payable on the date of issue, unless alternative arrangements have been made with us. Payment may be made direct to C & F Legal Limited's trust account 06-0705-0380808-02.

Where funds are passing through our trust account payment of our costs is by way of deduction from those funds, unless otherwise agreed. You, in accepting our terms of engagement, are authorising us to pay our fees and disbursements by deduction.

### Overdue Invoices

We reserve the right to charge interest at the rate of 18% per annum (calculated daily) on any overdue amounts remaining unpaid after 14 days following the issue of the invoice. Interest will be charged on a weekly basis.

We will charge our normal charge out rates or the actual costs of collection agencies in the administration and collection of any of your accounts that are overdue with us and you must pay.

We reserve the right to suspend our work for you should payment of existing invoices be overdue. Please note that in addition to the above, if an account remains unpaid after two months from the due date, the account may be referred to our debt collection agency and we may charge you a minimum default fee of 25% of the unpaid portion of the fee (but not less than \$50) to cover the collection agency's fees and we may seek further costs on recovery. The account may also be recorded on a credit information database held by a credit reporting agency. You shall also be liable to pay all legal fees and costs on a solicitor/client basis (including our attendances at our usual rates) incurred in taking enforcement action to recover our outstanding accounts.

### Security

We may ask you to pre-pay amounts to us, or to provide security for our fees and expenses. You authorise us:

- to debit against amounts pre-paid by you;
- to deduct from any funds held on your behalf in our trust account; any fees, expenses or disbursements for which we have provided an invoice; and
- to debit your credit card.

In accepting our terms of engagement, you authorise us to commission a credit report from our agency relating to you.

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.

### **Confidentiality**

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:

- to the extent necessary or desirable to enable us to carry out your instructions; or
- to the extent required by law or by the Law Society's Rules of Conduct and Client Care for Lawyers.

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.

We will of course, not disclose to you confidential information which we have in relation to any other client.

### **Termination**

You may terminate our retainer at any time.

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* (refer to New Zealand Law Society's website). Note in particular that this includes the right to terminate our work for you if you fail to pay the agreed fee by the due date.

If our retainer is terminated you must pay us all fees due up to the date of termination and all expenses incurred up to that date.

In certain circumstances we will be required to take formal steps to withdraw from proceedings and we will charge our normal rates for such attendances which are payable by you.

### **Retention of files and documents**

You authorise us (without further reference to you) to destroy all files and documents for this matter (other than any documents that we hold in safe custody for you) 7 years after our engagement ends, or earlier if we have converted those files and documents to an electronic format. While there is no charge for this storage at the time of this engagement, we may charge a fee for the storage of your records but will advise of those charges in advance of any charge.

### **Conflicts of Interest**

We have procedures in place to identify and respond to 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 Law Society's *Rules of Conduct and Client Care for Lawyers*.

### **Duty of Care**

Our duty of care is to you and not to any other person. Before any other person may rely on our advice, we must expressly agree to this.

### **Trust Account**

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 will normally 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.

### **Putting Funds on Interest Bearing Deposit**

From 1 July 2017, New Zealand is committed to commencing Common Reporting Standards (CRS) obligations. These arise from the Common Reporting Standard for the Automatic Exchange of Information developed by the OECD in tax matters between participating jurisdictions. The purpose behind all of this is to assist with the detection and deterrence of offshore tax evasion. What it means in practical terms for us is that, if we are putting client funds on interest bearing deposit, then unless it is for an estate or it is funds held in escrow, we are required to ask all of our clients to complete self-certification forms. These forms will include information about all the countries you are tax resident in and the tax identification number in that country. Because of New Zealand's commitment to CRS this information must be provided by us to our bank before they will accept funds on interest bearing deposit. Therefore, if we are holding funds for you for any length of time, we will be asking if you would like us to place them on deposit, and correspondingly asking you to complete the relevant form. This information will then go via our bank, ultimately to the IRD, and can be passed on to the tax authorities in other participating jurisdictions.

You are always free to choose not to complete the form, which therefore means that your funds will be held in our trust account, but not on interest bearing deposit. If this is your choice, we will require that you confirm this to us by email or other form of writing.

### **General**

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

- We are entitled to change these Terms from time to time, in which case we will send you amended Terms.
- Our relationship with you is governed by New Zealand law and New Zealand courts have non-exclusive jurisdiction.
- Set out below is the information required by the *Rules of Conduct and Client Care for Lawyers* of the New Zealand Law Society ("Law Society").

### **Fees**

While our hourly rates are set out in our letter of engagement, the following are the elements to be taken into account in any billing by us in terms of the statutory rules that govern law firms:

"9.1 The factors to be taken into account in determining the reasonableness of a fee in respect of any service provided by a lawyer to a client include the following:

- (a) the time and labour expended;
- (b) the skill, specialised knowledge, and responsibility required to perform the services properly;
- (c) the importance of the matter to the client and the results achieved;
- (d) the urgency and circumstances in which the matter is undertaken and any time limitations imposed, including those imposed by the client;
- (e) the degree of risk assumed by the lawyer in undertaking the services, including the amount or value of any property involved;
- (f) the complexity of the matter and the difficulty or novelty of the questions involved.
- (g) the experience, reputation, and ability of the lawyer;
- (h) the possibility that the acceptance of the particular retainer will preclude engagement of the lawyer by other clients;
- (i) whether the fee is fixed or conditional (whether in litigation or otherwise);
- (j) any quote or estimate of fees given by the lawyer;
- (k) any fee agreement (including a conditional fee agreement) entered into between the lawyer and client;
- (l) the reasonable costs of running a practice;
- (m) the fee customarily charged in the market and locality for similar legal services."

[*Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008, 2008/214*]

When payment of fees is to be made, is set out in our Standard Terms of Engagement.

You, in instructing us, authorise us to deduct from any funds held on your behalf in our trust account, any fees, expenses or disbursements for which we have provided an invoice.

#### **Professional Indemnity Insurance**

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

#### **Lawyer's Fidelity Fund**

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 \$100,000.00. Except in certain circumstances specified in the Lawyers & 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.

#### **Complaints**

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 about our services or charges, you may refer your complaint to the person in our firm who has overall responsibility for your work.

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 Kathy Carr, Rick Farr or Andrew Shaw, the Directors of our company.

He/she may be contacted as follows:

- by letter to PO Box 1049, Nelson 7040;
- by email to [kathy@cflegal.co.nz](mailto:kathy@cflegal.co.nz), [rick@cflegal.co.nz](mailto:rick@cflegal.co.nz) or [andrew@cflegal.co.nz](mailto:andrew@cflegal.co.nz);
- by telephoning him/her at (03) 545 8080.

The Law Society also maintains a complaints service and you are able to make a complaint to that service. To do so you should contact the New Zealand Law Society on 0800 261 801.

#### **Persons Responsible for the Work**

The names and status of the person or persons who will have the general carriage of or overall responsibility for the services we provide for you are set out in our letter of engagement.

#### **Client Care and Service**

The Law Society 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 be best 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 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 visit [www.lawsociety.org.nz](http://www.lawsociety.org.nz) or phone the New Zealand Law Society on 0800 261 801 or email [inquiries@lawsociety.org.nz](mailto:inquiries@lawsociety.org.nz).

#### **Limitations on Extent of our Obligations or Liability**

Any limitations on the extent of our obligations to you or any limitation or exclusion of liability are set out in our letter of engagement.