



KLINKERT LAW

29 Hope Street, Dunedin 9016
PO Box 767, Dunedin 9054
P +64 3 477 7267
F +64 3 477 2053
E office@klinkertlaw.co.nz

klinkertlaw.co.nz

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.

1 Services

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

2 Financial

2.1 Fees:

- a. The fees which we will charge or the way they will be arrived at, are set out in our engagement letter. You will receive our engagement letter detailing the work we have been instructed by you to complete following our initial meeting with you.
- b. If the engagement letter specifies a fixed fee estimate, we will charge this for the agreed scope of our services. The fixed fee estimate is our **best estimate** of the costs to carry out your instructions. Work which falls outside that scope will be charged in addition at a fee arrived at by taking into account the following matters (in accordance with guidelines laid down by the Rules of Professional Conduct of the New Zealand Law Society): the time spent; the skill, knowledge and responsibility required, the value of any property involved, the complexity, novelty, importance and urgency of the matter, the reasonable costs of running a practice and the result achieved for you. 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 likely amount of the further costs.
- c. If we cannot provide you with a fee estimate then we charge an hourly rate based on the subject matter.
- d. If we do not receive 24 hours’ notice of the cancellation of an appointment, we reserve the right to invoice you for the time scheduled.

2.2 **Disbursements / Retrievals and expenses:** In providing services we may incur disbursements or must make payments to third parties on your behalf. These will be included in our invoice to you when the expense is incurred. We may require an advance payment for the disbursements or expenses which we will be incurring on your behalf. For example, Land Information New Zealand (LINZ) requires

payment upon registration of instruments such as titles, discharge or new mortgages, easements etc. **If we ask you to make payment in advance, we will progress your matter upon receipt of payment of the interim invoice.**

- 2.3 **GST (if any):** Is payable by you on our fees and charges.
- 2.4 **Invoices:** We will send interim invoices to you, usually monthly and on completion of the matter, or termination of our engagement. We may also send you an invoice when we incur a significant expense as detailed in paragraph 2.2.
- 2.5 **Payment:** Invoices are payable immediately or within 7 days of the date of the invoice, unless alternative arrangements have been made with us.

We accept payment by way of cash or electronic direct bank transfer. We do not have any EFTPOS or Credit Card Facility.

We may require interest to be paid on any amount which is more than 7 days overdue, and it is probable that interest WILL be charged on any amount which is more than 1 month overdue, which you are liable to pay. Interest will be calculated at the rate of 20% per annum or 5 percent above the firm's bank overdraft rate, whichever is the higher, and interest will compound on any accounts which remain unpaid.

If you cannot meet payment of your account in full, you must contact Anja Klinkert and discuss a satisfactory payment arrangement.

You will be invoiced and are liable to pay for time spent by Klinkert Law in the recovery of any unpaid amounts.

If your account is referred to Debt Collection / Recovery, you will be liable to pay for all costs.

We reserve the right to cease doing work for you due to non-payment of accounts, until payment is received.

- 2.6. **Legal Aid** is available for some family matters. Your eligibility for a grant of Legal Aid is based on your income and assets. If you believe you may be eligible, our Legal Aid Provider can assist you to complete an application.

Where a grant of Legal Aid is made, we charge in accordance with the Ministry of Justice scale and guidelines (which can be viewed on the Ministry of Justice website at www.justice.govt.nz). You will receive a copy of all invoices submitted to the Legal Aid Services. You can contact our Legal Aid Provider if you have any queries.

Please note the following about the costs of Legal Aid:

- Legal Aid Services requires you to pay a \$50 to our firm as a 'user charge' in many family matters, which is a one-off fee.
- Your grant may be based on a condition to repay your grant. Legal Aid Services will contact you about this.
- You must inform Legal Aid Services directly (or us) if there is any change to your financial circumstances.
- Where Legal Aid is declined, withdrawn or an application is not submitted, we charge for legal services on a private-fee basis, which will be advised to you in your Letter of Engagement.

2.7 AML & CFT

NEW LEGISLATION REQUIRES LAWYERS TO OBTAIN MORE INFORMATION FROM CLIENTS BEFORE STARTING WORK

From 1st July 2018 the Anti-Money Laundering and Countering Financing of Terrorism Act 2009 will apply to all New Zealand law firms including Anja Klinkert Lawyer & Mediator.

The purpose of the legislation is to detect and deter money-laundering and financing of terrorism pursuant to New Zealand's international obligations.

The Act requires all law firms to mitigate the risk of being used to launder money or finance terrorism and to identify potentially suspicious activities.

The legislation has applied to banks for some time and, later this year, will also apply to accountants and real estate agents.

Next time you engage us to work for you, we will require you to provide documents in order to verify your identity. These may include a current passport, driver's licence or full birth certificate as well as a bank statement or utility bill to verify your residential address. This will be held electronically in our secured system and will not be released to any third parties.

Please do not be concerned if we ask for more information or documents. We are legally required to obtain this information from all clients, even those who have been clients for many years. If we are not able to collect and verify this information, the legislation precludes Anja Klinkert Lawyer & Mediator from being able to act for you.

- 2.8 **Security and Bank Account:** We may ask you to pre-pay amounts to us, or to provide security for our fees and expenses. You authorise us:
- a. to debit against amounts pre-paid by you; and
 - b. to deduct from any funds held on your behalf in our trust account any fees, expenses, disbursements, or retrievals for which we have provided an invoice;
 - c. we are required to hold proof of bank account details for any funds transferred from our trust account to the client nominated bank account. Please therefore provide us with a copy of your bank account statement detailing your name and the account number before we can make payment.

- 2.9 **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.

3 Confidentiality:

- 3.1 We will hold in confidence all information concerning you or your affairs that we acquire while 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 your instructions; or
- b. to the extent required by law or by the Law Society's *Rules of Conduct and Client Care for Lawyers*.

- 3.2 Confidential information concerning you will only be made available to those within our firm who are providing legal or mediation services for you.

4 Termination:

- 4.1 You may terminate our engagement at any time.
- 4.2 We may terminate our engagement in any of the circumstances set out in the Law Society's *Rules of Conduct and Client Care for Lawyers*.
- 4.3 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.
- 4.4 **Lien:** Until payment in full of all outstanding accounts in relation to this agreement has been met, we have the right to retain all original documents and correspondence on your file. You are entitled to change solicitors at any time, but you are responsible for the fees and any other outstanding payments due to us

until the time of change. We are entitled to hold deeds, files or other papers until payment is received.

4.5 **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.

5 Conflicts of Interest:

5.1 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*.

6 Duty of Care:

6.1 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.

7 Trust Account:

7.1 We maintain a Trust Account for all funds which we receive from clients. 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 2% of the interest derived.

8 General:

8.1 These Terms apply to any current engagement and to any future engagement, whether or not we send you another copy of them.

8.2 We are entitled to change these Terms from time to time, in which case we will send you amended Terms.

8.3 Our relationship with you is governed by New Zealand law and New Zealand courts have non-exclusive jurisdiction.

9 Identification: We require you to supply us with current original government-issued photographic identification, which includes: New Zealand Drivers Licence, Passport or Firearms Licence. We will hold a copy thereof on your file. If you do not hold any of the required forms of identification, we require that a Declaration of Identity Form be completed by an appropriate witness of your choice.

INFORMATION FOR CLIENTS

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")

- 1 **Fees:** The basis on which fees will be charged is set out in our Letter of Engagement. When payment of fees is to be made is set out in our Standard Terms of Engagement.
- 2 **Professional Indemnity Insurance:** We hold professional indemnity insurance that meets or exceeds the minimum standards specified by the Law Society. We will provide you the details of our professional indemnity insurance upon request.
- 3 **Lawyers 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.
- 4 **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 **Anja Klinkert or Dani Nicolson**.

They may be contacted as follows:

- ◆ by letter: *PO Box 767, Dunedin 9054*
- ◆ by email: *dani@klinkertlaw.co.nz or anja@klinkertlaw.co.nz*
- ◆ by telephone: *03 4777 267*

The Law Society also maintains a complaints service and you can make a complaint to that service. To do so you should contact the Law Society:

New Zealand Law Society Lawyers Complaints Service

- ◆ by email at: *complaints@lawsociety.org.nz*
- ◆ by telephone: *0800 261 801*

- 5 **Persons Responsible for the Work:** The name 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.
- 6 **Client Care and Services:** 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 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 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, or call (04) 472 7837.

- 7** **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.