

TERMS OF ENGAGEMENT

Introduction

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 At Brian Fox we are committed to providing you with a high quality legal service which we will deliver in a prompt and efficient manner. We value your business and more importantly, our relationship with you.
- 1.2 Each time we begin new work for you, you will receive our introductory letter or email or fax confirming your instructions and a copy of this, our terms of engagement. *You do not need to sign the Terms to indicate your acceptance. Your acceptance will be assumed from your continuing to engage us.*

2. Confidentiality

- 2.1 We will hold in confidence all information concerning you or your affairs as well as your instructions to us which we will acquire during the course of acting for you.
The exceptions are when:
 - (a) you authorize us to disclose such information;
 - (b) we must do so by law;
- 2.2 Confidential information concerning you, will as far as practical, be made available only to those within our firm who are providing legal services to you.
- 2.3 The reverse, of course, applies and we will not be able to disclose to you information that we obtain through acting for other clients.

3. Conflicts of Interest

- 3.1 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 Rule of Conduct and Client Care for Lawyers.

4. Duty of Care

- 4.1 Our duty of care is to our client named in our confirmation of instruction. We do not owe a duty of care or liability to any other person. If any person wishes to rely on our advice, they can only do so if we expressly agree. If during the course of our appointment, we provide services to entities related to or are associated with you, then these services will be provided on the same term as these standard terms.

5. Financial

5.1 Fees:

Our fee will be charged on the basis that they will be fair and reasonable having regard to the circumstances of the matter and the nature of our work for you, based on Rule 9.1 of the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008 which take into account a number of factors, including the results achieved, the urgency of the matter at hand, the level of skill required, complexity of the matter, responsibility involved and specialist knowledge needed.

- 5.2 We provide a fee estimate on request. This will be a guide only and not a fixed quote. We will advise you if it becomes apparent that the fees estimate will be exceeded.

5.3 Disbursements and expenses:

In providing services we may incur disbursements or have to 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.

5.4 GST (if any):

Our invoices will include any New Zealand Goods and Services Tax (GST) which are applicable to our supply of services to you, unless you are, or the matter is, zero-rated or exempt for the purposes of GST.

- 5.5 **Invoices:** We will send invoices to you, usually on the completion of the matter, or termination of our engagement. If the billed work we are doing for you is ongoing, we will issue interim accounts. We may also send you an invoice when we incur a significant expense.

- 5.6 **Payment:** Invoices are payable within 7 days of the date of the invoice, unless alternative arrangements have been made with us.

5.6.1 If payment of our invoice is overdue, we may:

5.6.1.1 Not perform any further work for you until all unpaid invoices are paid in full;

5.6.1.2 Retain custody of any property (including documents or files) until all unpaid invoices are paid in full;

5.6.1.3 Charge interest at the rate of 5% above our firm’s main trading bank’s commercial lending rate as at the close of business on the date payment became due;

5.6.1.4 In the event of having to instruct a debt collection agency, add any cost of debt recovery on to the total balance outstanding;

5.6.1.5 Register a caveat against any property owned by you as security for unpaid fees and disbursements that you owe to us, and to this end you hereby acknowledge that these Terms of Engagement constitute an agreement to mortgage in our favour.

5.7 **Security:** 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 or disbursements for which we have provided an invoice.

5.7 **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.

6. Termination

6.1 Subject to the Lawyers and Conveyancers Act (Lawyers: Conduct and Client Care) Rules 2008, you may end our engagement by giving us written notice at any time. You must pay our fees for work done and for other charges incurred up to the end of our engagement.

6.2 We may, on reasonable notice, end our engagement at any time.

6.3 Provided that you have paid our invoices on all matters, we will (on request) provide to you all the documents that we have obtained or created through working for you on the matter or matters in question.

7. Professional Indemnity Insurance

Brian Fox holds professional indemnity insurance.

8. Fidelity Fund

In a situation where you have suffered a pecuniary loss by reason of theft or money or value of property stolen entrusted to Brian Fox, Brian Fox Solicitor, or agent thereof in the course of regulated services, or in the firms capacity as a solicitor – trustee you may claim against the Lawyers Fidelity fund administered by the New Zealand Law Society a maximum of \$100,000.00.

9. Retention of files and documents

9.1 At the end of your matter, we will keep your files and documents for the minimum period required by law. At the end of this period, you authorize 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).

9.2 All files and documents will be destroyed in a confidential manner.

10. Trust Account

10.1 We maintain a trust account for all funds which we receive from clients (except monies received for payment of our invoices).

10.2 If we are holding significant funds on your behalf we will normally lodge those funds on interest bearing deposit with a bank.

11. Electronic Communications

11.1 Where we provide any electronic service to you, or communicate with you by electronic means, we will take every reasonable precaution to ensure that these services and communications are accurate, reliable, adequate, complete, confidential and secure.

11.2 However, we do not accept responsibility and will not be liable for any damage or loss caused by to you or your system by such transmission, or any interference, interception, virus, other defects, delay or non-delivery relating to such a transmission.

12. Complaints

If you are unhappy with any aspect of the work we have undertaken, please contact Mr Brian Fox, the principal the firm at practice@brianfoxlaw.co.nz We trust that we will be able to resolve the matter to your satisfaction.

13. General

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

13.2 Our relationship with you is governed by New Zealand Law and New Zealand courts have exclusive jurisdiction.