

TERMS OF ENGAGEMENT

These Terms of Engagement will apply to all services that Harmos Horton Lusk Limited (we or us) provides to a client unless otherwise specifically agreed with the client.

1. Our client

Our client on any particular matter (referred to in these Terms of Engagement (Terms) as our Client or you) will be the party identified as such in the Letter of Engagement unless specifically agreed otherwise.

2. Scope of work and our role

All matters will be carried out in accordance with applicable laws and the rules of professional conduct of the New Zealand Law Society (Law Society Rules).

Our duties are owed to our Client and any advice given is for the benefit of our Client alone. Unless otherwise expressly agreed or required by law, our duties will not extend to any other person.

We do not purport to be experts in all fields of law and we will, where we consider it necessary or desirable to do so, secure advice on particular aspects of the matter from other lawyers. However, we will not advise on tax issues in relation to the matter, and will, if you so request, assist you in obtaining such advice.

We are only qualified to advise on New Zealand law. If we assist you on matters governed by foreign law, we do so on the basis that we do not accept any responsibility in relation to your position under that foreign law, whether or not we have obtained foreign law advice on your behalf.

3. Confidentiality

Confidentiality of all clients' information is of key importance to us. We will not disclose confidential information obtained as a result of acting for you unless required or authorised by you, or required by law or the Law Society Rules.

4. Fees

We will charge a fee which is reasonable for the services we provide to you. In determining our fee, we will take into account the hourly rates of our personnel who have worked on the matter, as well as other relevant criteria approved by the New Zealand Law Society, including:

- the skill, specialised knowledge and responsibility required;
- the time expended;
- the value of any property or money involved;
- the importance of the matter to our Client;
- the complexity of the matter;
- the number and importance of the documents prepared or perused;
- the urgency and circumstances in which the business is transacted.

If requested, we will give an estimate of the likely fees. However this will be a guide only and not a fixed quotation, unless specifically agreed otherwise in our Letter of Engagement. Where we believe that an estimate is likely to be materially exceeded, we will endeavour to advise you and provide you with an updated estimate.

Some instructions may not be completed, for reasons beyond our control. If this occurs, you will be liable to pay us for the work undertaken and costs incurred up to the time of termination.

Unless stated otherwise, any fee estimate or fixed quotation will be exclusive of GST, disbursements and service charges.

5. Other charges

We will also charge you for disbursements, such as travel and accommodation costs, search, registration and filing fees, courier costs, and other external costs such as fees of agents, experts and other professionals incurred by us in relation to the matter.

We will discuss with you any major or unusual expenditure before we incur it and where a material disbursement is likely to be incurred, we may ask that this be paid to us before that cost is incurred.

We will also invoice you for a standard service charge to cover general office services provided by us (for example photocopying, faxes, telecoms charges, deliveries, and postage).

6. Billing and accounts

We usually issue invoices for our services on a monthly basis, but will invoice on a different basis if we have specifically agreed with you to do so or a different approach is appropriate.

Unless otherwise agreed with you, invoices are payable within 14 days of the date of issue. Payment can be made by direct payment to our bank account or by cheque or cash.

Our fees and other charges are payable on invoice and unless otherwise agreed with you we will not issue a separate monthly statement. We reserve the right to charge interest at 15% p.a. from the due date on any amount not paid within 30 days after the invoice date.

7. Conflicts of interest

If a conflict of interest arises in relation to a matter on which we have been instructed, we will discuss that conflict with our Client and agree a possible solution.

Where we receive instructions that give rise to a conflict of interest, we may need to refer you and the other client to other lawyers for independent legal advice. Where we are already acting for you on a matter and a conflict arises, we may have to discontinue our involvement for you in that matter.

We may accept instructions to act for other clients or potential clients who operate in the same market as you or who may otherwise compete with you, but will not act on a matter that:

- is related to a matter on which we are currently acting for you, without your consent; or
- would require us to disclose confidential information that we have obtained from you.

We will not disclose your confidential information to another client nor will we disclose another client's confidential information to you.

We will not knowingly accept instructions from you to commence proceedings against another client of ours or from another client to commence proceedings against you.

8. Electronic communications

Unless otherwise agreed with you, we may communicate with you and others by electronic means. As you will be aware, such communications are not secure and may be subject to unauthorised interception, interference, error or virus. While we will take all reasonable steps to protect our communications from such issues, we will not accept any responsibility and will not be liable for any damage or loss if they occur.

9. Information about you

We may collect and retain information about you as part of providing services to you. We will use this information to inform you of changes in our business, to advise you of matters that we reasonably believe may be of interest to you and to advise you of matters that may impact on the way in which we may in the future provide services to you. The information referred to will be held at our offices in Auckland or those of our service provider.

You have the right at any time to have access to any information we hold about you and to ask us to correct any incorrect information. Should you wish to review the information held by us about you, please contact the Practice Manager by email on practicemanager@hhl.co.nz or by telephone on +64 9 921 4300.

10. Files and records

We will retain files we establish on a matter, and any documents you leave with us, for at least seven years after the end of our involvement in the matter. We may then destroy them at the end of that period unless we explicitly agree with you in writing that we will retain them for a longer period.

We may store those files and documents at premises outside our offices, which may be operated by independent service contractors.

If you uplift your files or documents, we may make copies of them before giving them to you.

11. Trust Account

We maintain a trust account for funds that we receive from or for the benefit of clients (except for funds which are payment of our invoices).

Unless you expressly instruct otherwise, we may, where practicable and reasonable, deposit the funds we hold on your behalf in an interest bearing deposit account with a New Zealand registered bank - either on call or for a fixed term. We are not responsible for obtaining the best interest rate available at the time your funds are placed on interest bearing deposit or for any loss of interest that you may suffer as a result of any delay in placing your funds on interest bearing deposit.

We will have no liability to you however arising for the loss of any amount deposited with us on your behalf where the loss results from the act, omission, neglect or default of a financial institution.

We may deduct any fee, expense or disbursement for which we have provided you with an invoice from any funds held in our trust account on your behalf except where we receive the funds from you for a special purpose (other than as security for our fees) and they remain in our trust account for that special purpose.

The Lawyer's Fidelity Fund administered by the Law Society provides some protection against client losses arising from theft of money by lawyers. The most that the Lawyer's Fidelity Fund can compensate you is \$100,000. The Lawyer's Fidelity Fund protection **does not** apply where you instruct us to invest your money, except in certain limited circumstances (such as the application of money at your instruction to give effect to the sale and purchase of land or a business).

Our trust account is not audited.

12. Termination

You may terminate our engagement at any time and we may terminate it in the circumstances permitted by the Law Society Rules.

13. Changes to these Terms

We may change these Terms from time to time. Once you have been notified of any change, we may assume that you agree to the change by your continued instruction of us.

We are required by law to comply with the Law Society Rules. As such, these Terms will be deemed to be modified to the extent necessary to comply with those Rules.

14. Law and Jurisdiction

These Terms are governed by New Zealand law and are subject to the exclusive jurisdiction of the Courts of New Zealand.

INFORMATION FOR CLIENTS

The following information is required by the Rules of Conduct and Client Care for Lawyers issued by the New Zealand Law Society (**Law Society**) to be provided by lawyers to their clients.

1. Fees

The basis on which fees will be charged by Harmos Horton Lusk (**we** or **us**) in respect of a matter and when payment of fees is to be made are set out in our standard Terms of Engagement.

2. Professional Indemnity Insurance

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

3. Lawyers Fidelity Fund

The Law Society administers a Lawyers Fidelity Fund which provides clients with some protection against loss caused by theft by a lawyer of money or other assets entrusted to the lawyer.

4. Complaints

If you have a complaint about our services or charges, you may refer your complaint to the Director of Harmos Horton Lusk who has overall responsibility for your work.

However, 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 another Director, whom you may contact by letter, by email at the email address for that Director appearing on our website www.hhl.co.nz, by telephoning our office at +64 9 921 4300 and asking to speak to that Director, or by any other means.

The Law Society also maintains a complaints service and you are able to make a complaint to that service by contacting the Law Society, whose contact details are:

Postal Address: PO Box 5041, Lambton Quay, Wellington 6145 (DX SP20202)

Telephone: 0800 264 801

Fax: +64 4 473 7909

Website: www.lawsociety.org.nz

5. 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 agree to provide for you are set out in our Letter of Engagement. If at any stage you would prefer a change in the personnel handling a matter, please contact either the Director responsible for the matter or another Director of Harmos Horton Lusk.

6. Client Care and Service

Whatever legal services we are providing to you, we 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 0800 261 801.