

STANDARD TERMS OF ENGAGEMENT

These Standard Terms of Engagement (**Terms**) apply in respect of all work carried out by Shieff Angland (**us**) for you, except to the extent that we otherwise agree with you in writing.

1 Our Services

1.1 **Letter of Engagement:** We will provide you the services as outlined in our letter of engagement to you. If our understanding of the services is different to your own, it is important that you communicate that to us as soon as possible.

1.2 **Due Care and Skill:** We will act in accordance with your instructions, subject to any ethical or legal duty. In doing so we will use due care and skill.

1.3 **Our Advice:** Any advice given by us is:

- a solely for your benefit, and it may not be relied on by any other person unless we agree in writing;
- b not to be disclosed, referred to or used other than for the purpose for which it was requested;
- c not to be made public or published;
- d limited to the matters stated in it;
- e limited to and governed by New Zealand law; and
- f subject to changes in the law after the date it is given.

1.4 **No Taxation Advice:** We are not responsible for advising you on taxation issues.

1.5 **No Translation:** We are not responsible for translating our advice or any other communication to you. If requested, we can provide you with a general translation but that will not be a literal translation and so you cannot rely on it. If English is not your first language we recommend that you obtain a literal translation from an accredited translator. We can refer you to an accredited translator as required.

1.6 **Use of Name and Advice:** Our name and advice may not be used in connection with any offering document, financial statement, report or other public document without our written consent.

1.7 **End of Engagement:** When our instructions on a matter are completed, our engagement will end. We are not obliged to notify you of any subsequent change of law, or to provide any further services related to that matter.

2 Confidential Information

2.1 **Hold in Confidence:** 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:

- 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.

2.2 **Limited disclosure:** 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.

2.3 **Will not disclose to another client:** We will not disclose to you confidential information which we have in relation to any other client.

3 Conflicts of Interest

3.1 **Procedures in place:** We have procedures in place to identify and respond to legal conflicts of interest. If a legal 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.

3.2 **May accept instructions from competitors:** We may accept instructions from other clients or potential clients operating in the same or competing markets as you and whose commercial interest conflict with yours, provided those instructions do not involve the use of confidential information we have obtained from you.

4 Financial

4.1 **Fees:** Unless other arrangements are made, our fees reflect the time we spend on a matter, charged at our hourly rates (which may change from time to time for lawyers and legal executives) and adjusted where appropriate to reflect other factors permitted by the Rules of Conduct and Client Care of the New Zealand Law Society. Those factors may include the specialised knowledge, skills or responsibility required, the amounts involved, the importance of the matter, urgency and the results achieved. Our hourly rates may change from time to time to reflect changes in the skill, knowledge, and expertise of our lawyers and legal executives, and to take account of changes in the market and in our costs.

4.2 **Fee estimates:** We are able to give estimates of what the fees and other costs are likely to be based on our experience with similar matters. Estimates are given as a guide only and should not be relied on as a fixed quotation. Upon request, we will also inform you periodically of the level of fees incurred or inform you when fees reach a specified level.

4.3 **Fixed fees:** If requested, we can provide a fixed fee which will be on the basis of an agreed scope of services. Work which falls outside that scope will be charged separately. We will advise you 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.

4.4 **Disbursements and Expenses:** In providing services we may incur disbursements or have to make payments to third parties on your behalf. These may include expenses such as Court filing fees, barrister fees, expert fees, travel expenses, couriers and fees of agents who serve documents or conduct investigations, searches and registration. These may also include any secretarial and/or word processing undertaken outside usual business hours. These disbursements and expenses 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. We may also require that you enter a payment arrangement directly with the third party providing the relevant services.

4.5 **General Expenses:** We may charge you a general fee for our office services such as photocopying, faxing, and phone calls.

4.6 **GST:** Our fees, disbursements and expenses are plus goods and services tax (if any) and that sum is payable by you.

5 Invoices

5.1 **Interim Invoices:** We will send interim invoices to you, usually monthly. We will send a final invoice to you on completion of the matter or on termination of our engagement. We may also send you an invoice when we incur a significant expense on your behalf.

5.2 **Payment within 14 days:** Invoices are payable by you within 14 days of invoice unless otherwise arranged with us. If you have any queries regarding our invoice please raise that within 14 days of receiving it.

5.3 **Default in payment:** If an invoice is not paid by its due date, we may elect:

- a to deduct any amount outstanding from any money we are holding on your behalf;
- b not to do any further work, and to retain custody of your papers or files, until the accounts are paid in full;
- c to charge interest at a rate of no more than 5% per annum above the prevailing indicator lending rate of our bankers.

5.4 **Third Parties:** You must pay our invoices whether or not:

- a you have a right of indemnity or recovery from a third party;
- b any third party seeks assessment of any of our invoices; or
- c you receive any amount from a third party.

5.5 **Prepayment and Deduction:** We may ask you to pre-pay amounts to us for our fees, disbursements and expenses. You authorise us:

- a to debit against amounts prepaid by you;
- b to deduct from any funds held on your behalf in our trust account any fees, disbursements and expenses from which we have provided an invoice.

5.6 **Security for Costs:** We may require security for our fees, disbursements and expenses which security may take the form of a mortgage or general security. We may also require another person to guarantee your payment of our fees, disbursements and expenses.

5.7 **Joint and Several Liability:** If there is more than one person comprising our client, each person is jointly and severally liable for payment of all of our accounts and other charges when due.

6 Trust Account

6.1 **Trust Account:** We maintain a trust account for all funds which we receive from clients (except monies received for payment of our invoices).

6.2 **Interest Bearing Deposit:** If it is necessary for us to hold significant amounts on your behalf, we may lodge those funds on interest bearing deposit with a bank. In that case we may charge an administration fee of 5% of the interest derived. If we deposit funds on your behalf we will (in addition to information we are required to obtain due to our obligations referred to at clause 7) need either your IRD number or a copy of your interest withholding tax exemption certificate.

7 Customer Information

7.1 **Due Diligence:** We must comply with our obligations under all laws binding on us, including:

- a anti-money laundering and countering financing of terrorism laws; and
- b laws relating to tax reporting and withholdings.

In order to do so, 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 and (in the case of a trust) the beneficiaries of the trust. We may not be able to act or continue acting for you, or to complete trust account transactions for you, until this is completed. We may charge you a fee for our work in undertaking such customer due diligence together with any third party due diligence.

7.2 **Electronic Certification System:** Where possible we may verify individual details using an electronic certification system. You authorise us to allow your personal information to be verified against personal information held by our provider, Centrix, and held by other third party databases and acknowledge that there is a small charge for this service which will be charged as a disbursement. Notwithstanding that your identity may be verified using electronic verification, we may still need to complete additional due diligence to meet the anti-money laundering and countering financing of terrorism laws.

7.3 **Provision of information to banks and other entities:** We may be required to provide information about you, persons acting on your behalf, and other relevant persons as described above to government agencies. We may not be permitted to tell you or such persons if we do provide such information. We may also be required to provide such information to banks with which we place your funds through our trust account, and information provided to banks may be in turn be passed on by them to tax and other regulatory authorities in New Zealand and offshore.

7.4 **Your obligations:** You shall ensure that any of the persons described in clause 7.1 in respect of whom we collect information are aware of and consent to this and to the provisions relating to privacy set out in clause 14. You shall also ensure that all information provided to us is accurate. We are not responsible to you, or anyone else, for anything done or not done by us (including any provision of information by us to any third party or any withholdings made) in order to comply with our legal obligations.

7.5 **Use of information:** We will periodically advise you what information and documents are required for the purposes described above. We may retain the information and documents, provide them to a bank or other entity to deal with in accordance with their terms, and disclose to them or to any enforcement or regulatory agency or Court as required by law.

7.6 **Refuse to act:** We or the bank or other entity may suspend, terminate or refuse to enter into a business relationship and delay, block or refuse to process a transaction, and report it without notice if the required information or documents are not provided or it is suspected that the business relationship or transaction is unusual, may breach any applicable law, or may otherwise relate to conduct that is illegal or unlawful in any country.

7.7 **US Foreign Account Tax Compliance Act:** In addition to the above, we may request information from you in order to comply with any obligation under the US Foreign Account Tax Compliance Act.

8 Electronic Communication

8.1 **Electronic Communication:** We may communicate with you and others at times by electronic means. These communications can be subject to interference or interception or contain viruses or other defects (corruption). We do not accept responsibility for, and will not be liable for any damage or lost caused in connection with, or as consequence of, the corruption of an electronic communication.

8.2 **Contact us:** If you have any doubts about the authenticity of any communication or document purportedly sent by us, please contact us immediately.

9 Retention of Files and Documents

9.1 **Authority to destroy:** You authorise us (without reference to you) to destroy all files and documents for any matter (other than any documents that we hold in safe custody for you) seven years after our engagement on that matter ends, or earlier if we have converted those files and documents to an electronic format.

9.2 **Right to inspect:** Subject to the lien in clause 13, if you wish to inspect your files and documents or require copies to be made, we may charge for this.

10 External Information and Public Records

10.1 **Use of information from third parties:** In advising you, we may rely on, or provide you with, information obtained from third parties (e.g. your accountant, experts or witnesses) or public records (e.g. from a government agency or registry).

10.2 **No responsibility:** This information may not always be accurate, complete or up-to-date. We do not accept responsibility to investigate or verify external information or public records and will not be liable for any damage or loss caused by errors or omissions in them.

11 Limitation of Liability

11.1 **Time Limit:** Any claim you may have against us must be filed within two years after the date of the act or omission on which the claim is based. Otherwise, the claim cannot be filed and we have no liability for that act or omission or for its consequences (to the extent permitted by law). Reference here to "claim" and "the date of act or omission on which the claim is based" have the same meanings as the Limitation Act 2010. This time limit overrides the time periods under the Limitation Act 2010, and applies regardless of when any fact relevant to the claim was first discovered or able to be discovered.

11.2 **Limitation of Liability:** To the extent permitted by law, our aggregate liability to you (whether in contract, equity, tort, statute, or otherwise) arising out of your engagement of us on a matter (or any series of related matters) is limited to the greater of:

- a If an amount is available to be paid out under any relevant insurance held by us in respect of our liability to you, that amount, up to a maximum of \$5 million (including interest and costs); or
- b in any other case, an amount equal to the amount of the fees paid by you to us (excluding our office services charge, disbursements and GST).

12 Termination

12.1 **You may terminate at any time:** You may terminate our engagement at any time.

12.2 **We may terminate:** 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. If we stop work because payment is not received by us within 14 days of issue of our invoice we will have no liability for any loss suffered by you when work is stopped for this reason.

12.3 **Payment required:** If our engagement is terminated you must pay us all fees due up to the date of termination and all expenses incurred up to that date.

13 Lien

13.1 Where work has been done by us and we have not been paid by you, then we have the right to retain the original documents and the correspondence on your files until such time as all outstanding fees, disbursements and expenses have been paid. This is known as a lien. This is important if circumstances arise where you decide for whatever reason to instruct another law firm. You must pay all outstanding fees, disbursements and expenses before we release your files to your new solicitors. Alternatively that other law firm may be obliged to give an undertaking to us to pay all outstanding fees, disbursements and expenses before your file is released.

14 Personal Information

14.1 **Disclosure:** We will treat your personal information as confidential. We may need to disclose certain information to:

- a our contractors or agents;
- b other organisations including other parties to the matter, a Court and law enforcement and government agencies who process transactions or perform regulatory functions, but only to carry out your instructions, to fulfil our professional duties, to exercise our rights under these Terms, or to comply with a legal requirement.

14.2 **Compliance with law:** We will comply with all applicable laws (including the Privacy Act 1993) when we collect, use, and disclose personal information about you.

14.3 **Use of Information:** We will sometimes need to collect, use and disclose personal information about your employers, directors or other people associated with you or with your transactions (including any principals or beneficiaries for whom or for whose benefit you are acting) to carry out your instructions. Please make sure that these people are aware that our acting for you may involve collecting, using, and disclosing personal information about them. In most cases they can request access to the personal information we hold about them.

14.4 **Other use of information:** We may also use your personal information to keep you informed about legal developments, other legal services, seminars we offer. Please let us know if you do not want your personal information used for this purpose.

15 General

15.1 **Binding on you and your successor:** These Terms, and any other agreement we have with you, are binding on you and any successor of your rights and obligations.

15.2 **No right to assign:** You may not assign or transfer any rights or obligations under these Terms or any other agreement we have with you.

15.3 **Right to vary:** We are entitled to change these Terms from time to time, in which case we will send you amended Terms.

15.4 **Governing law:** Our relationship with you is governed by New Zealand law and New Zealand courts have non-exclusive jurisdiction.