

**RE: TERMS OF ENGAGEMENT**

The Lawyers and Conveyancers Act requires all law firms to supply the following information to clients when receiving an instruction.

**1. Privacy and Confidentiality**

We will treat all information we hold about you as private and confidential and will not disclose any information we hold on your behalf or about you unless we are required to do so by law or where it is necessary to do so to provide our services to you or when requested by you or with your consent.

**2. Client care and service information**

Whatever legal services your lawyer is providing, they 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 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.

**3. Fees**

We will charge a fee which is fair and reasonable for the services provided having regard to your interest and our interests. In determining the fee, the following may be taken into account:

- the skill, specialised knowledge, and responsibility required to perform the services properly;
- the importance of the matter to you and the results achieved;
- the urgency and circumstances in which the matter is undertaken, and any time limitations imposed, including those imposed by you;
- the time and labour expended;
- the complexity of the matter and the difficulty or novelty of the questions involved;
- the experience, reputation and ability of the members of our firm working on your matter;
- the possibility that the acceptance of the particular instructions will preclude employment of us by other clients;
- whether the fee is fixed or conditional;
- any quote or estimate of fees given by us;
- any fee agreement entered into between you and us;
- the reasonable costs of managing and maintaining records of any trust related matter;
- the reasonable costs of running our firm;
- the fee customarily charged in the market and locality for work similar to yours.

Unless otherwise stated all fees are plus GST.

We will provide for you an estimate upon request. If that estimate is likely to be exceeded, we shall let you know.

There are other methods of charging which suit certain types of work and we shall discuss those with you where they are appropriate.

All work done by us is charged on a fee basis apart from a commission of 5% which is taken on all interest accruing on funds deposited with our bank through our bulk deposit scheme.

#### **4. Payment of Fees**

Except on conveyancing matters where fees are payable immediately prior to settlement, our fees are to be paid within 14 days of our account being sent.

Our final account will be sent to you shortly after we have completed your matter.

We do however issue interim accounts where that is appropriate.

Our fees may be deducted from funds held in our trust account on your behalf.

We may ask you to pay fees in advance, but in those instances your payment will be held in our trust account and only paid to us by deduction when an account has been forwarded to you.

Disbursements such as search and registration fees and valuation fees are GST inclusive and will be charged at cost and itemised separately.

Charges for bureau/office expenses, telephone, faxes and photocopying are GST exclusive and will be charged separately.

Charges for file and electronic document storage expenses are GST exclusive and will be charged separately.

Out of pocket expenses are to be paid by you immediately upon request but substantial out of pocket expenses will be asked for in advance.

Interest will accrue on unpaid accounts at the rate of 15% per annum as from the due date until payment. Other action to recover unpaid fees may also be taken and the cost of such recovery may be added to the account due by you.

#### **5. Responsibility**

Stephen Tee (Director), Anne Beeson (Senior Solicitor), John Morton (Consultant) will have primary responsibility for this matter and may be assisted by either Julie Erceg (Legal Executive) or Jo Bentley (Legal Executive). The hourly rates of each person acting are as follows:

Stephen Tee (Director)	\$400.00 plus GST
Anne Beeson (Senior Solicitor)	\$400.00 plus GST
John Morton (Consultant)	\$400.00 plus GST
Julie Erceg (Legal Executive)	\$250.00 plus GST
Jo Bentley (Legal Executive)	\$250.00 plus GST

#### **6. Conflict of Interest**

You have instructed us to act for you in relation to ..... Morton Tee Limited has also been instructed to act for ..... in relation to this matter.

Acting for ..... as....., and you as ....., places us in a clear conflict of interest situation. In such circumstances, we can only act for both parties to a transaction where each party is aware that we are so acting, and each party has given their consent in this regard. By the terms of this letter, we

advise you to seek independent legal advice. However, note that you may elect not to take that advice and can, instead, ask us to provide you with the advice notwithstanding the conflict of interest.

In the normal course of events, we would be reluctant to act for more than one party in such situation. However, there are circumstances which we believe justify our acting despite the apparent conflict, namely:

- It may be difficult for us to refer one of you elsewhere and to continue to act for the other. It may be necessary to refer each of you to other firms of solicitors, in which case you would be denied, in this transaction, the benefit of the knowledge we have of your operations and requirements, as well as the background to the transaction. A material increase in legal costs is also potentially avoided; and
- You are experienced and well capable of making your own decisions in the event of any difficulties arising during the course of the transaction.

In the event that you believe the above situations are not present in this case or there are other factors which we may not be aware of, such as an undue influence or pressure on you that makes you uncomfortable with the proposed transactions, we ask that you raise this with us as it may be best or indeed necessary that you do receive independent advice.

In the event that we do act for each party and in the future a serious dispute arises between the parties or if it appears likely or inevitable that litigation between the parties will arise, then it will be impossible for us to continue to act for either party in respect of the transaction. In such a case each party will have to seek independent legal advice outside of Morton Tee Limited.

## **7. Anti-Money Laundering and Counter Financing of Terrorism (AML/CFT) Compliance**

We are obligated to comply with all laws applicable to us in all jurisdictions, including (but not limited to):

- anti-money laundering and counter financing of terrorism laws; and
- laws relating to tax and client reporting and withholdings.

We may be required to undertake customer due diligence on you, persons acting on your behalf and other relevant persons such as beneficial owners and controlling persons. We may not be able to begin acting, or to continue acting, for you until that is completed.

To ensure our compliance and yours, we may be required to provide information about you, persons acting on your behalf or other relevant persons to government agencies. There may be circumstances where we are not able to tell you or such persons if we do provide information.

If we hold money in an interest-bearing account on your behalf, either overnight or on a longer-term basis, we are required by our bank to have on file adequately completed customer due diligence on you, persons acting on your behalf and other relevant persons. For this reason, we will be unable to hold any funds on deposit at your request unless we have completed such customer due diligence on the understanding that we may, if required by our bank, make such information available to them.

Please ensure that you and/or any of the persons described previously are aware of and consent to this. It is important to ensure that all information provided to us is accurate. If the information

required is not provided, or considered by us to be potentially inaccurate, misleading, or in contravention of any law, we may terminate or refuse to enter into an engagement.

## **8. Files and Documents**

When your instructions have been completed, we shall keep your file for a period of 7 years from completion and then destroy it. You are welcome to uplift your file provided that all fees and expenses have been paid. Please give us reasonable notice before collecting your file should you wish to do so. A file and electronic document storage fee will be charged on final billing if you choose not to uplift.

## **9. If you have a Complaint**

We hope you will not have any complaints but if you do, we maintain a procedure for handling such situation, designed to ensure that a complaint is dealt with promptly, fairly and satisfactorily.

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

If you do 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 the Director of the firm, **Stephen Tee**.

We can be contacted as follows:

- by letter;
- by email ([office@mortontee.co.nz](mailto:office@mortontee.co.nz));
- by telephoning (09 486 1729).

The Law Society operates the Lawyers Complaints Service and you are able to make a complaint to that service. To do so, phone **0800 261 801** and you will be connected to the nearest Complaints Service Office, which can provide information and advice about making a complaint.

## **10. Professional Indemnity Insurance**

We hold current Professional Indemnity Insurance which exceeds the minimum standards from time to time specified by the New Zealand Law Society.

## **11. Limitation of Liability**

We do not accept liability for any loss arising from non-receipt of any communication including email communications.

We are not advising in respect of the merits of any prospective investment and we do not accept liability for any loss arising from any such investment.

## **12. The Lawyers' Fidelity Fund ("Fund")**

This Fund exists to provide compensation of up to \$100,000.00 per claim for clients who suffer a pecuniary loss in certain circumstances. These circumstances are the theft by a lawyer of money or other valuable property entrusted to that lawyer while they are providing legal services to the public or while they are acting as a solicitor-trustee.

It should be noted though that the Fund will not pay compensation in respect of money instructed to be invested unless they are funds invested in a bank in New Zealand, or in some private loans such as family loans.

This is only a short summary of the major provisions in the Lawyers and Conveyancers Act 2006 relating to the Fidelity Fund. If you would like further information, please ask us.

### **13. Right to Terminate your Retainer**

You are entitled to terminate your instructions to us upon giving us reasonable notice. Our fees for services reasonably and properly provided to you prior to the termination of retainer shall be paid by you prior to uplifting your records and we may retain copies of your documents and records.

We may terminate the retainer if there is good cause, such as you not provided us with instructions in a sufficiently timely way or in your inability or failure to pay our fee on an agreed basis, or, except in litigation matters, your adopting against our advice a course of action which we believe is highly imprudent.

If we terminate the retainer, we will give you reasonable notice so that you can arrange alternative representation and we shall give you reasonable assistance to find another lawyer.

We reserve the right to stop work on your retainer if interim accounts are not paid on time or a request for information or action remains unsatisfied.

The obligations lawyers owe to clients are described in the Rules of Conduct and Client Care for Lawyers (the Rules). Those obligations are subject to other overriding duties, including duties to the Courts and to the justice system.

If you have any questions, please call the Lawyers Complaints Service: 0800 261 801.

We would be pleased to discuss any aspect of these Terms of Engagement with you.

**Please advise immediately if you do NOT accept our Terms of Engagement. Unless you advise us otherwise, we will continue to act on your instructions on the basis that you are happy with these arrangements.**

Yours faithfully  
**Morton Tee Limited**